



AGENDA STAFF REPORT

Control: 26001922

MEETING DATE: 11/17/2026

LEGAL ENTITY TAKING ACTION: Board of Supervisors

BOARD OF SUPERVISORS DISTRICT(S): District 5

SUBMITTING AGENCY/DEPARTMENT: John Wayne Airport

DEPARTMENT CONTACT PERSON(S): Charlene Reynolds, 949-252-5183
Hector Gomez, 949-252-5198

SUBJECT: Approve New and Revised Airport User Fees at John Wayne Airport

CEO CONCUR	COUNTY COUNSEL REVIEW	CLERK OF THE BOARD
Concur	Approve resolution to form	PUBLIC HEARINGS
		3 Votes Board Majority

Budgeted: No	Current Year Cost: N/A	Annual Cost: N/A
Staffing Impact: No		Sole Source: N/A
Current Fiscal Year	Funding Source: N/A	County Audit in Last 3
Revenue: See Financial Impact Section		years: No
Levine Act Review Completed? N/A		

Prior Board Action: 8/14/2018 #S27F, 3/12/2002 #28, 12/8/1987 #49

RECOMMENDED ACTION(S):

1. Find that the proposed new and revised Airport user fees are Statutorily Exempt from the provisions of the California Environmental Quality Act pursuant to Section 21080(b)(8) of the Public Resources Code and Section 15273 of the CEQA Guidelines as CEQA does not apply as the establishment or modification, structuring, restructuring or approval of rates, tolls, fares, and other charges by a public agency which are for the purpose of meeting operating expenses, including employee wage rates and fringe benefits; purchasing or leasing supplies, equipment, or materials as set forth herein.
2. Conduct the public hearing.
3. Approve the new and revised John Wayne Airport user fees, effective January 1, 2027, including the ground transportation trip fees, effective March 1, 2027, with all fees to be adjusted every two years to reflect Consumer Price Index increases, beginning January 1, 2029.
4. Adopt a Resolution that:

- a. Approves the new and revised user fees for Airport Identification Badging, Special Event Application Review, Conference Room Use and Line Service Fuel Safety Training, effective January 1, 2027, and the ground transportation trip fees, effective March 1, 2027, with all fees to be adjusted every two years to reflect Consumer Price Index increases, beginning January 1, 2029, for John Wayne Airport to continue to operate as a self-sustaining business enterprise pursuant to 49 U.S.C. section 47107, Orange County Codified Ordinance section 2-1-1(a) and Board resolutions No. 82-1539 and No. 87-825, and, consistent with 49 U.S.C. section 47133, revenues generated by John Wayne Airport shall be used solely for the capital or operating costs of the Airport, the local airport system, or other qualifying airport-related facilities.
- b. Find that the new and revised user fees meet the requirements set forth in subdivision (e)(1), (e)(2), (e) (3) and (e)(4) of Section 1 of Article XIII C of the California Constitution, and are therefore exempt from the definition of a tax as used therein.
- c. Find that the new and revised user fees are for the purposes of meeting operating expenses and are, therefore, exempt from compliance with the California Environmental Quality Act.
- d. Find that the new and revised user fees are consistent with the criteria established in Board resolutions No. 82-1539 and No. 87-825 for the Airport Enterprise Fund and are not imposed for taxation and/or County general revenue purposes.
- e. Find that the new and revised user fees will provide for cost recovery for John Wayne Airport's operations and related Capital Improvement Plan needs, while also upholding safety and security and maintaining high-quality services for its guests.
- f. Rescinds Resolution No. 87-1628, effective January 1, 2027.
- g. Rescinds Resolution No. 18-084, effective March 1, 2027.

SUMMARY:

Approval of the new and revised airport user fees will provide cost recovery for John Wayne Airport's operations and related Capital Improvement Plan needs while upholding safety and security and maintaining high-quality services for its guests.

BACKGROUND INFORMATION:

John Wayne Airport (JWA) operates as a financially self-sustaining business enterprise at no cost to the taxpayers through the imposition of fair and reasonable rentals, fees, and charges to ensure sufficient revenues to cover all costs in accordance with JWA's Revenue Planning Policy established under Board Resolutions No. 82-1539 and No. 87-825, Orange County Codified Ordinance section 2-1-1, and Federal Aviation Administration (FAA) Policy on Rates and Charges.

Board of Supervisor (Board) Actions are summarized below:

Board Date	Action Taken
10/12/1982	Resolution No. 82-1539 adopted by the Board approving the JWA Revenue Planning Policy.

6/9/1987 #98	Resolution No. 87-825 adopted by the Board approving certain fees and charges as an element of revenue requirements in compliance with the Bond Indenture securing JWA Revenue Bonds and the JWA Revenue Planning Policy, effective 7/1/1987.
12/8/1987 #49	Resolution No. 87-1628 adopted by the Board, which adjusts JWA tiedown and T-Hangar fees, adjusts charges on overdue tiedown and T-Hangar fees, adjusts and establishes automobile parking fees, and establishes a security badge fee, effective 02/01/1988.
3/12/2002 #28	Resolution No. 02-062 adopted by the Board approving new and revised rates and fees for public parking, parking permits, County tiedowns, County hangars, ground transportation, effective 04/01/2002
8/14/2018 #S27F	Resolution No. 18-084 adopted by the Board to establish pick-up and drop-off fees effective 09/1/2018, and adjusting those fees effective 03/1/2019.

A. Airport Identification (ID) Badging Fees

JWA's Airport Identification Badging program administers the security identification credentials required for authorized individuals accessing secure areas of JWA. The program currently supports approximately 5,700 credentialed individuals. Airport ID Badge fees have remained unchanged at \$10 since 2008. Over time, changes in federal security requirements have increased the processing, recordkeeping and compliance activities associated with administering the badging program.

The annual cost of administering the badging program is approximately \$994,000, primarily consisting of personnel and supplies necessary to operate the program. Current fees generate approximately \$67,000 annually and recover approximately 6.7 percent of program costs, with the remaining cost supported by other JWA revenues.

JWA reviewed badging fees charged by comparable airports and found the proposed fees to be consistent with peer airport rates. JWA recommends increasing the Airport ID Badge fee from \$10 to \$60, establishing a flat \$100 lost badge fee, and establishing \$25 fees for endorsement changes and missed appointment/reactivation. The flat lost badge fee would replace the current tiered structure and simplify administration. Endorsement changes, which include changes to badge privileges and require issuance of a new badge, account for approximately 400 requests annually. JWA also averages approximately 35 missed appointments per month, resulting in unused appointment capacity and additional administrative workload.

At the proposed rates, annual badging fee revenue is estimated to increase from approximately \$67,000 to \$413,000, increasing recovery of program costs from approximately 6.7 percent to 42 percent. The remaining program costs will continue to be supported by other JWA revenues.

Fee	Current Fee	Proposed Fee
Airport ID Badge	\$10	\$60
Lost Airport ID Badge	\$31 / \$56 / \$106	\$100
Badging Endorsement	N/A	\$25
Missed Badging Appointment / Reactivation	N/A	\$25

The proposed fees have been reviewed by the Auditor-Controller and the County Executive Office (Attachment B).

B. Special Event Application Review Fee

The Special Event Application Review Fee is intended to recover the administrative costs associated with reviewing and processing requests from JWA tenants to conduct special events or activities outside the uses permitted under their agreements. These requests require coordination among several JWA divisions to evaluate operational, safety, insurance, and other requirements associated with the proposed events. Based on the staff resources required to review and process these requests, JWA recommends establishing a Special Event Application Review Fee of \$290. With approximately 28 applications annually, the proposed fee is estimated to generate approximately \$8,120 in annual cost recovery revenue.

Fee	Proposed Fee
Special Event Application Review	\$290

C. JWA Conference Room Use Fee

JWA maintains conference rooms primarily to support JWA operations. Conference rooms may also be made available to County departments and non-County entities for uses not directly related to the airport. Consistent with federal requirements governing the use of JWA revenue, JWA seeks to appropriately recover costs associated with the use of Airport property and related resources, estimated to generate approximately \$5,280 in annual cost recovery revenue.

Fee	Proposed Fee
Basic Room Reservation	\$55 hourly
Extended Set Up	\$135 fixed
Audio / Visual Set Up	\$440 fixed
JWA Onsite Personnel	\$165 hourly
Custodial	\$35 fixed

D. Line Service Fuel Safety Training Fee

The Line Service Fuel Safety Training Fee recovers the cost of off-airport personnel participating in JWA's fuel safety training, estimated to generate approximately \$4,275 in annual cost recovery revenue. The training is available to personnel engaged in aircraft fueling operations and covers essential fuel-handling safety practices and orientation to Aircraft Rescue and Firefighting (ARFF) procedures, consistent with the safety and operational standards of certificated Part139 airports.

The proposed fee has been reviewed by the Auditor-Controller and the County Executive Office (Attachment B).

Fee	Proposed Fee
Line Service Fuel Safety Training	\$150

E. Ground Transportation Fee

The ground transportation fee is a uniform per-trip fee charged to commercial ground transportation operators for each passenger pick-up and drop-off at JWA. These operators include all commercial modes, such as transportation network companies (TNCs), taxis, shared-ride shuttles, limousines, and hotel and other courtesy shuttles. On August 14, 2018, the Board adopted Resolution No. 18-084, to implement two-phased changes to the ground transportation fee. The fee was first extended to apply to both passenger pick-ups and drop-offs and then increased to \$3.00 effective March 1, 2019, where it has remained unchanged.

As part of the current fee review, JWA's financial advisor, Frasca & Associates, LLC (Frasca), conducted a market study of ground transportation trip fees at five other Southern California airports. The study benchmarked per-trip fees charged to TNCs, which provides a comparable basis across airports, and found that JWA's current \$3.00 fee is the lowest among the airports surveyed, as shown below:

Airport	Current Fee
John Wayne Airport (SNA)	\$3.00
Burbank (BUR)	\$3.50
Long Beach (LGB)	\$5.00
Los Angeles (LAX)	\$4.00, increasing to \$6.00 and \$12.00 upon SkyLink activation
Ontario (ONT)	\$5.00
San Diego (SAN)	\$5.00

Based on the market study, Frasca recommended a uniform fee of \$5.00 per trip, which brings JWA to current market levels, consistent with rates charged at comparable airports. JWA proposes to adopt this fee effective March 1, 2027, to allow time for implementation. At the proposed fee, annual ground transportation revenue is estimated to increase by approximately \$5,132,566. The fee will continue to recover JWA's operating costs associated with the ground transportation cost center, including Capital Improvement Program (CIP) projects that impact ground transportation. This approach is consistent with JWA's operation as a self-sustaining business enterprise.

Fee	Current Fee	Proposed Fee
Ground Transportation Per Trip Fee	\$3	\$5

CPI Adjustments

To ensure cost recovery and the ability to align with incremental labor and material cost increases, JWA recommends adjusting the fees every two years based on changes in the Consumer Price Index (CPI) for the Los Angeles-Long Beach-Anaheim (All Urban Consumers - All Items), rounded to the nearest whole dollar, except the ground transportation fee, which shall be rounded to the nearest five cents. In no event will the CPI adjustment result in the rates being reduced, and any increase to the rates will not be more than five percent per year.

Compliance with Proposition 26:

The proposed Airport User Fees fall within exceptions to the definition of "tax" under Article XIII, C, section 1, subdivision (e), of the California Constitution. The Airport Identification Badging Fees and Line

Service Fuel Safety Training Fee fall within the exemption under subdivision (e)(2) for charges imposed for a specific government service or product provided directly to the payor, that is not provided to those not charged, and that do not exceed the reasonable costs to the local government of providing the service or product. The Special Event Application Review Fee falls within the exemption under subdivision (e)(3) for charges imposed for the reasonable regulatory costs of issuing licenses and permits, and conducting other related regulatory activities, including the review and processing of tenant requests for authorization to conduct special events or activities outside the uses permitted under JWA lease agreements. The Conference Room Use Fee falls within the exemption under subdivision (e)(4) for charges imposed for entrance to or use of local government property. Each proposed fee is structured to recover no more than the reasonable costs associated with providing the applicable service, regulatory activity, or the use of JWA property. The Ground Transportation Fee falls within the exemptions under subdivisions (e)(1) and (e)(4). Under subdivision (e)(1), the fee is imposed for a specific benefit conferred or privilege granted directly to the payor that is not provided to those not charged and does not exceed the reasonable costs to the local government of conferring the benefit or granting the privilege.

Compliance with CEQA: The subject activity is statutorily exempt from review under CEQA pursuant to Section 21080(b)(8) of the Public Resources Code and Section 15273 of the CEQA Guidelines as the establishment or modification of rates, fees and charges which are for the purpose of meeting operating expenses, including employee wage rates and fringe benefits; purchasing or leasing supplies, equipment, or materials.

FINANCIAL IMPACT:

Approval of the proposed Airport User Fees is estimated to generate approximately \$5,496,538 in additional annual cost recovery revenue to Airport Operating Fund 280. The anticipated additional revenue from the proposed fees is not included in the FY 2026-27 Budget for Airport Operating Fund 280 but will be absorbed in the FY 2026-27 Budget. The revenue from the revised fees will be included in the budgeting process for future years.

STAFFING IMPACT:

N/A

REVIEWING AGENCIES/DEPARTMENTS:

N/A

ATTACHMENTS:

Attachment A – Draft Board Resolution
Attachment A – Draft Board Resolution
Attachment B – Fee Checklists
Attachment C – 49 U.S.C section 47107
Attachment D – 49 U.S.C section 47133
Attachment E – Resolution No. 87-1628
Attachment F – Resolution No. 02-062
Attachment G – Resolution No. 18-084

RESOLUTION OF THE BOARD OF SUPERVISORS OF
ORANGE COUNTY, CALIFORNIA

November 17, 2026

WHEREAS, this Board, by Resolutions No. 82-1539 and No. 87-825 has established the John Wayne Airport Revenue Planning Policy (JWA Revenue Policy), which contemplates that fees, rents, and charges relating to John Wayne Airport activities would be established and periodically reviewed and modified, consistent with the requisites of full airport cost recovery, the revenue bond indenture, and funding capital improvement needs; and

WHEREAS, the JWA Revenue Policy and Orange County Codified Ordinance section 2-1-1(a) state that John Wayne Airport shall be operated on an enterprise basis at no cost to taxpayers, through the imposition of fair and reasonable rentals, fees, and charges, and that any rates should be developed on the basis of either market value or cost recovery, whichever is higher; and

WHEREAS, 49 U.S.C. section 47107 requires that the County, as a condition of receiving federal grant funds, maintain a fee and rental structure for use of the facilities and services at John Wayne Airport to ensure continued recovery of JWA's costs, which will make the Airport a self-sustaining entity; and

WHEREAS, 49 U.S.C. section 47133 requires that revenues generated by John Wayne Airport be used solely for the capital or operating costs of the Airport, the local airport system, or other qualifying airport-related facilities; and

NOW, THEREFORE, BE IT RESOLVED and ordered as follows:

1. The County of Orange Board of Supervisors, in accordance with California Public Resources Code section 21080 (b)(8), finds that the new and revised user fees

listed below are for the purpose of meeting operating expenses and are, therefore, exempt from compliance with the California Environmental Quality Act.

2. The County of Orange Board of Supervisors finds that the new and revised user fees meet the requirements set forth in Article XIII C, Section 1, subdivisions (e)(1), (e)(2), (e)(3), and/or (e)(4) of the California Constitution and are therefore exempt from the definition of a tax as used in that section.
3. The County of Orange Board of Supervisors finds that the new and revised user fees are consistent with the criteria established in Board Resolutions No. 82-1539 and No. 87-825 for the Airport Enterprise Fund and are not imposed for taxation and/or County general revenue purposes.
4. The County of Orange Board of Supervisors finds that the new and revised user fees will provide for cost recovery for John Wayne Airport's operations and related Capital Improvement Plan needs, while also upholding safety and security and maintaining high-quality services for its guests.
5. The County of Orange Board of Supervisors approves the implementation by the John Wayne Airport Director the following new and revised user fees, effective January 1, 2027:

New and Revised Fee Schedule

Category	Fee	Rate
Airport Identification (ID) Badging Fees	Airport ID Badge	\$60.00
	Lost Airport ID Badge	\$100.00
	Badging Endorsement	\$25.00
	Missed Badging Appointment / Reactivation	\$25.00
Special Event Application Review	Special Event Application Review	\$290.00
JWA Conference Rooms	Basic Room Reservation	\$55 hourly
	Extended Set Up	\$135 fixed
	Audio / Visual Set Up	\$440 fixed
	JWA Onsite Personnel	\$165 hourly
	Custodial	\$35 fixed

Line Service Fuel Safety Training	Line Service Fuel Safety Training	\$150
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6. The County of Orange Board of Supervisors approves the implementation by the John Wayne Airport Director of a ground transportation fee of \$5 per pick-up trip and \$5 per drop-off trip, effective March 1, 2027.
7. Commencing January 1, 2029, and every two years thereafter, the user fees listed above, inclusive of the ground transportation fees, shall be automatically adjusted in proportion to increases in the CPI for Los Angeles-Long Beach-Anaheim (All Urban Consumers - All Items) promulgated by the Bureau of Labor Statistics of the U.S. Department of Labor. This adjustment shall be calculated by means of the following formula:

A (Adjusted JWA User Fee) = Current User Fee x B/C (rounded to the nearest whole dollar, except that the ground transportation fee shall be rounded to the nearest five cents (\$0.05)).

B = Monthly index for the month of September preceding the month of January in which the Adjusted User Fee is to become effective.

C = Monthly index for the month of September two years before the month used in B.

In no event will the CPI adjustment result in the User Fees being reduced below their existing amounts, and any increase resulting from the adjustment will not be more than five percent (5%) per year.

8. The County of Orange Board of Supervisors hereby rescinds Resolution No. 87-1628 dated November 24, 1987, effective January 1, 2027.

9. The County of Orange Board of Supervisors hereby rescinds Resolution No. 18-084 dated August 14, 2018, effective March 1, 2027.



EXHIBIT IV FEE CHECKLIST FOR ASR SUBMISSION

Attachment B

DESCRIPTION

County Agencies & Departments are generally responsible for all aspects of their fees. **Three weeks** prior to filing the ASR for proposed fee updates with the Clerk of the Board, the department/agency must submit the ASR, Fee Checklist, and appropriate documentation to allow adequate time for the CEO and Auditor-Controller to perform a limited review. The Fee Checklist signed by both the CEO and Auditor-Controller must be attached to the ASR.

DEPT./AGENCY: JOHN WAYNE AIRPORT DATE: 10/12/2026
 DEPT./AGENCY CONTACT: ROSANNE JIN PHONE NO.: 949-252-5191
 Description of proposed fee contained in ASR:
User Fees: Airport ID Badge, Lost Airport ID Badge, Badging Endorsement, Missed Badging Appointment /Reactivation
 Amount of annual revenue related to this proposal:
\$413,400

Answer the following questions and check appropriate boxes.

Check One
YES NO N/A

BACKGROUND:

1. Is this a revision of existing fee(s)? If YES, when were the fee(s) last revised? ✓
01/29/2008
Attach a fee schedule that includes a comparison between current and proposed fees.
2. Are there any new fee(s)? ✓
3. When will the fee(s) be effective?
 Date: 01/01/2027

LEGAL CONSIDERATIONS:

4. Has legal authority for the fee been reviewed? ✓
5. Is the fee request consistent with the legal authority to levy? ✓
6. Cite the legal authority of the fee and attach a copy of the reference code(s).
Board Resolution No. 87-825, Orange County Codified Ordinance section 2-1-1, and Federal Register Vol. 78, No. 175 Policy Regarding Airport Rates and Charges.
7. Does the fee(s) meet one of Proposition 26's exceptions (Note 1)? ✓
 If "NO" is checked, please contact your CEO Budget Analyst.
 If "YES" is checked, please list the exception(s). If necessary, please provide attachments.
California Constitution Section 1 Article XIII C: (e)(2) A charge imposed for a specific government service or product provided directly to the payor that is not provided to those not charged, and which does not exceed the reasonable costs to the local government of providing the service or product.
8. Is the drafted Board Resolution or ordinance language (if required) attached? ✓

COMMUNICATIONS

9. List county and non-county departments, agencies, organization and/or communities impacted by the fee(s), if applicable
Tenants, sub-tenants, contractors, and individuals
 a. requiring a JWA security badge. Have they been notified? ✓
 Has the fee been coordinated with them? ✓
10. Have all advisory board and public hearing concurrences been finalized? ✓

FEE CALCULATIONS

11. Is full cost recovery planned in the fee calculation? If not, Please provide an explanation. ✓



EXHIBIT IV FEE CHECKLIST FOR ASR SUBMISSION

Attachment B

12. Are the proposed fee(s) derived from a cost basis analysis? If YES, Please complete questions 13 through 16. If NO, please provide explanation. ✓

13. Is agency/department indirect cost included in the fee calculation? ✓

14. Is the County General support service costs as determined by the County Wide Cost Allocation Plan (CWCAP) included in the fee calculation? ✓

15. Identification of the costs related to this fee proposal:

Personnel (Salaries & Employee Benefits)	\$	730,888.00
Services and Supplies	\$	239,640.00
Equipment	\$	4,323.00
Department/Agency Indirect Costs	\$	0.00
County General support service costs (CWCAP)	\$	19,604.00
Other	\$	0.00
Total	\$	994,455.00

16. *Initial Fiscal Year

Costs:	\$	994,455.00
Revenue:	\$	240,252.00
Other Sources:	\$	754,203.00

*Projected Fiscal Year

Costs:	\$	994,455.00
Revenue:	\$	413,400.00
Other Sources:	\$	581,055.00

* Costs, revenue, and NCC including cost and revenue related to this fee update.

17. Revenue Coding:

FUND	DEPT	BUDGET CONTROL	UNIT	REVENUE SOURCE	DEPT REVENUE SOURCE
280	280	280	0600	7590	9220
280	280	280	0600	7590	9225

Dept./Agency

Authorized Signature

Signed by:

Hector Gomez

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Print Name: Hector Gomez

Date: 10/12/2026

Auditor-Controller
Signature

Signed by:

Faran Eskandari

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Print Name: Faran Eskandari

Date: 10/12/2026

CEO Signature

DocuSigned by:

Robin Hinds

83BE214CBA954A9...

Print Name: Robin Hinds

Date: 10/13/2026



EXHIBIT IV
FEE CHECKLIST FOR ASR SUBMISSION

Attachment B

Note 1: California State Constitution, Article XIII C, § 1 (e), 2(d), (Proposition 26, November 3, 2010)
Requires a fee or charge that does not fall within the seven exceptions listed in Proposition 26 is deemed a tax which must be approved by the voter.



EXHIBIT IV FEE CHECKLIST FOR ASR SUBMISSION

Attachment B

DESCRIPTION

County Agencies & Departments are generally responsible for all aspects of their fees. **Three weeks** prior to filing the ASR for proposed fee updates with the Clerk of the Board, the department/agency must submit the ASR, Fee Checklist, and appropriate documentation to allow adequate time for the CEO and Auditor-Controller to perform a limited review. The Fee Checklist signed by both the CEO and Auditor-Controller must be attached to the ASR.

DEPT./AGENCY: JOHN WAYNE AIRPORT DATE: 10/13/2026
 DEPT./AGENCY CONTACT: ROSANNE JIN PHONE NO.: 949-252-5191
 Description of proposed fee contained in ASR:
Line Service Fuel Safety Training Fee
 Amount of annual revenue related to this proposal:
\$4,275

Answer the following questions and check appropriate boxes.

Check One
YES NO N/A

BACKGROUND:

1. Is this a revision of existing fee(s)? If YES, when were the fee(s) last revised? ✓

Attach a fee schedule that includes a comparison between current and proposed fees.

2. Are there any new fee(s)? ✓

3. When will the fee(s) be effective?

Date: 01/01/2027

LEGAL CONSIDERATIONS:

4. Has legal authority for the fee been reviewed? ✓

5. Is the fee request consistent with the legal authority to levy? ✓

6. Cite the legal authority of the fee and attach a copy of the reference code(s).

Board Resolution No. 87-825, Orange County Codified Ordinance section 2-1-1, and Federal Register Vol. 78, No. 175 Policy Regarding Airport Rates and Charges.

7. Does the fee(s) meet one of Proposition 26's exceptions (Note 1)? ✓

If "NO" is checked, please contact your CEO Budget Analyst.

If "YES" is checked, please list the exception(s). If necessary, please provide attachments.
 California Constitution Section 1 Article XIII C: (e)(2) A charge imposed for a specific government service or product provided directly to the payor that is not provided to those not charged, and which does not exceed the reasonable costs to the local government of providing the service or product.

8. Is the drafted Board Resolution or ordinance language (if required) attached? ✓

COMMUNICATIONS

9. List county and non-county departments, agencies, organization and/or communities impacted by the fee(s), if applicable

- a. Off-airport operators engaged in aircraft fueling Have they been notified? ✓

Has the fee been coordinated with them? ✓

10. Have all advisory board and public hearing concurrences been finalized? ✓

FEE CALCULATIONS

11. Is full cost recovery planned in the fee calculation? If not, Please provide an explanation. ✓



EXHIBIT IV FEE CHECKLIST FOR ASR SUBMISSION

Attachment B

12. Are the proposed fee(s) derived from a cost basis analysis? If YES, Please complete questions 13 through 16. If NO, please provide explanation. ✓

13. Is agency/department indirect cost included in the fee calculation? ✓

14. Is the County General support service costs as determined by the County Wide Cost Allocation Plan (CWCAP) included in the fee calculation? ✓

15. Identification of the costs related to this fee proposal:

Personnel (Salaries & Employee Benefits)	\$	513.00
Services and Supplies	\$	3,762.00
Equipment	\$	0.00
Department/Agency Indirect Costs	\$	0.00
County General support service costs (CWCAP)	\$	0.00
Other	\$	0.00
Total	\$	4,275.00

16. *Initial Fiscal Year

Costs:	\$	4,275.00
Revenue:	\$	2,138.00
Other Sources:	\$	2,137.00

*Projected Fiscal Year

Costs:	\$	4,275.00
Revenue:	\$	4,275.00
Other Sources:	\$	0.00

* Costs, revenue, and NCC including cost and revenue related to this fee update.

17. Revenue Coding:

FUND	DEPT	BUDGET CONTROL	UNIT	REVENUE SOURCE	DEPT REVENUE SOURCE
280	280	280	0600	7590	9230

Dept./Agency

Authorized Signature

Signed by:

Hector Gomez

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Print Name: Hector Gomez

Date: 10/13/2026

Auditor-Controller
Signature

Signed by:

Faran Eskandari

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Print Name: Faran Eskandari

Date: 10/13/2026

CEO Signature

DocuSigned by:

Robin Hinds

83BE214CBA954A9...

Print Name: Robin Hinds

Date: 10/13/2026

Note 1: California State Constitution, Article XIII C, § 1 (e), 2(d), (Proposition 26, November 3, 2010)
Requires a fee or charge that does not fall within the seven exceptions listed in Proposition 26 is deemed a tax which must be approved by the voter.

an Effective Date note under section 101 of Title 6, Domestic Security.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

ENVIRONMENTAL REVIEW OF AIRPORT IMPROVEMENT PROJECTS

Pub. L. 106–181, title III, §310, Apr. 5, 2000, 114 Stat. 128, provided that:

“(a) **STUDY.**—The Secretary [of Transportation] shall conduct a study of Federal environmental requirements related to the planning and approval of airport improvement projects.

“(b) **CONTENTS.**—In conducting the study, the Secretary, at a minimum, shall assess—

“(1) the current level of coordination among Federal and State agencies in conducting environmental reviews in the planning and approval of airport improvement projects;

“(2) the role of public involvement in the planning and approval of airport improvement projects;

“(3) the staffing and other resources associated with conducting such environmental reviews; and

“(4) the time line for conducting such environmental reviews.

“(c) **CONSULTATION.**—The Secretary shall conduct the study in consultation with the Administrator [of the Federal Aviation Administration], the heads of other appropriate Federal departments and agencies, airport sponsors, the heads of State aviation agencies, representatives of the design and construction industry, representatives of employee organizations, and representatives of public interest groups.

“(d) **REPORT.**—Not later than 1 year after the date of the enactment of this Act [Apr. 5, 2000], the Secretary shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the results of the study, together with recommendations for streamlining, if appropriate, the environmental review process in the planning and approval of airport improvement projects.”

GRANTS FOR ENGINEERED MATERIALS ARRESTING SYSTEMS

Pub. L. 106–181, title V, §514(c), Apr. 5, 2000, 114 Stat. 144, provided that: “In making grants under section 47104 of title 49, United States Code, for engineered materials arresting systems, the Secretary [of Transportation] shall require the sponsor to demonstrate that the effects of jet blasts have been adequately considered.”

GRANTS FOR RUNWAY REHABILITATION

Pub. L. 106–181, title V, §514(d), Apr. 5, 2000, 114 Stat. 144, provided that: “In any case in which an airport’s runways are constrained by physical conditions, the Secretary [of Transportation] shall consider alternative means for ensuring runway safety (other than a safety overrun area) when prescribing conditions for grants for runway rehabilitation.”

COMPLIANCE WITH REQUIREMENTS

Pub. L. 106–181, title VII, §737, Apr. 5, 2000, 114 Stat. 172, provided that: “Notwithstanding any other provision of law, in order to avoid unnecessary duplication of expense and effort, the Secretary [of Transportation] may authorize the use, in whole or in part, of a completed environmental assessment or environmental impact study for new construction projects on the air operations area of an airport, if the completed assessment or study was for a project at the airport that is substantially similar in nature to the new project. Any such authorized use shall meet all requirements of Fed-

eral law for the completion of such an assessment or study.”

§ 47107. Project grant application approval conditioned on assurances about airport operations

(a) **GENERAL WRITTEN ASSURANCES.**—The Secretary of Transportation may approve a project grant application under this subchapter for an airport development project only if the Secretary receives written assurances, satisfactory to the Secretary, that—

(1) the airport will be available for public use on reasonable conditions and without unjust discrimination;

(2) air carriers making similar use of the airport will be subject to substantially comparable charges—

(A) for facilities directly and substantially related to providing air transportation; and

(B) regulations and conditions, except for differences based on reasonable classifications, such as between—

(i) tenants and nontenants; and

(ii) signatory and nonsignatory carriers;

(3) the airport operator will not withhold unreasonably the classification or status of tenant or signatory from an air carrier that assumes obligations substantially similar to those already imposed on air carriers of that classification or status;

(4) a person providing, or intending to provide, aeronautical services to the public will not be given an exclusive right to use the airport, with a right given to only one fixed-base operator to provide services at an airport deemed not to be an exclusive right if—

(A) the right would be unreasonably costly, burdensome, or impractical for more than one fixed-base operator to provide the services; and

(B) allowing more than one fixed-base operator to provide the services would require reducing the space leased under an existing agreement between the one fixed-base operator and the airport owner or operator;

(5) fixed-base operators similarly using the airport will be subject to the same charges;

(6) an air carrier using the airport may service itself or use any fixed-base operator allowed by the airport operator to service any carrier at the airport;

(7) the airport and facilities on or connected with the airport will be operated and maintained suitably, with consideration given to climatic and flood conditions;

(8) a proposal to close the airport temporarily for a nonaeronautical purpose must first be approved by the Secretary;

(9) appropriate action will be taken to ensure that terminal airspace required to protect instrument and visual operations to the airport (including operations at established minimum flight altitudes) will be cleared and protected by mitigating existing, and preventing future, airport hazards;

(10) appropriate action, including the adoption of zoning laws, has been or will be taken to the extent reasonable to restrict the use of land next to or near the airport to uses that

are compatible with normal airport operations;

(11) each of the airport's facilities developed with financial assistance from the United States Government and each of the airport's facilities usable for the landing and taking off of aircraft always will be available without charge for use by Government aircraft in common with other aircraft, except that if the use is substantial, the Government may be charged a reasonable share, proportionate to the use, of the cost of operating and maintaining the facility used;

(12) the airport owner or operator will provide, without charge to the Government, property interests of the sponsor in land or water areas or buildings that the Secretary decides are desirable for, and that will be used for, constructing at Government expense, facilities for carrying out activities related to air traffic control or navigation;

(13) the airport owner or operator will maintain a schedule of charges for use of facilities and services at the airport—

(A) that will make the airport as self-sustaining as possible under the circumstances existing at the airport, including volume of traffic and economy of collection; and

(B) without including in the rate base used for the charges the Government's share of costs for any project for which a grant is made under this subchapter or was made under the Federal Airport Act or the Airport and Airway Development Act of 1970;

(14) the project accounts and records will be kept using a standard system of accounting that the Secretary, after consulting with appropriate public agencies, prescribes;

(15) the airport owner or operator will submit any annual or special airport financial and operations reports to the Secretary that the Secretary reasonably requests and make such reports available to the public;

(16) the airport owner or operator will maintain a current layout plan of the airport that meets the following requirements:

(A) the plan will be in a form the Secretary prescribes;

(B) the Secretary will review and approve or disapprove only those portions of the plan (or any subsequent revision to the plan) that materially impact the safe and efficient operation of aircraft at, to, or from the airport or that would adversely affect the safety of people or property on the ground adjacent to the airport as a result of aircraft operations, or that adversely affect the value of prior Federal investments to a significant extent;

(C) the owner or operator will not make or allow any alteration in the airport or any of its facilities unless the alteration—

(i) is outside the scope of the Secretary's review and approval authority as set forth in subparagraph (B); or

(ii) complies with the portions of the plan approved by the Secretary; and

(D) when an alteration in the airport or its facility is made that is within the scope of the Secretary's review and approval authority as set forth in subparagraph (B), and does

not conform with the portions of the plan approved by the Secretary, and the Secretary decides that the alteration adversely affects the safety, utility, or efficiency of aircraft operations, or of any property on or off the airport that is owned, leased, or financed by the Government, then the owner or operator will, if requested by the Secretary—

(i) eliminate the adverse effect in a way the Secretary approves; or

(ii) bear all cost of relocating the property or its replacement to a site acceptable to the Secretary and of restoring the property or its replacement to the level of safety, utility, efficiency, and cost of operation that existed before the alteration was made, except in the case of a relocation or replacement of an existing airport facility that meets the conditions of section 47110(d);

(17) if any phase of such project has received funds under this subchapter, each contract and subcontract for program management, construction management, planning studies, feasibility studies, architectural services, preliminary engineering, design, engineering, surveying, mapping, and related services will be awarded in the same way that a contract for architectural and engineering services is negotiated under chapter 11 of title 40 or an equivalent qualifications-based requirement prescribed for or by the sponsor;

(18) the airport and each airport record will be available for inspection by the Secretary on reasonable request, and a report of the airport budget will be available to the public at reasonable times and places;

(19) the airport owner or operator will submit to the Secretary and make available to the public an annual report listing in detail—

(A) all amounts paid by the airport to any other unit of government and the purposes for which each such payment was made; and

(B) all services and property provided to other units of government and the amount of compensation received for provision of each such service and property;

(20) the airport owner or operator will permit, to the maximum extent practicable, intercity buses or other modes of transportation to have access to the airport, but the sponsor does not have any obligation under this paragraph, or because of it, to fund special facilities for intercity bus service or for other modes of transportation; and

(21) if the airport owner or operator and a person who owns an aircraft agree that a hangar is to be constructed at the airport for the aircraft at the aircraft owner's expense, the airport owner or operator will grant to the aircraft owner for the hangar a long-term lease that is subject to such terms and conditions on the hangar as the airport owner or operator may impose.

(b) WRITTEN ASSURANCES ON USE OF REVENUE.—(1) The Secretary of Transportation may approve a project grant application under this subchapter for an airport development project only if the Secretary receives written assur-

ances, satisfactory to the Secretary, that local taxes on aviation fuel (except taxes in effect on December 30, 1987) and the revenues generated by a public airport will be expended for the capital or operating costs of—

- (A) the airport;
- (B) the local airport system; or
- (C) other local facilities owned or operated by the airport owner or operator and directly and substantially related to the air transportation of passengers or property.

(2) Paragraph (1) of this subsection does not apply if a provision enacted not later than September 2, 1982, in a law controlling financing by the airport owner or operator, or a covenant or assurance in a debt obligation issued not later than September 2, 1982, by the owner or operator, provides that the revenues, including local taxes on aviation fuel at public airports, from any of the facilities of the owner or operator, including the airport, be used to support not only the airport but also the general debt obligations or other facilities of the owner or operator.

(3) This subsection does not prevent the use of a State tax on aviation fuel to support a State aviation program or the use of airport revenue on or off the airport for a noise mitigation purpose.

(c) WRITTEN ASSURANCES ON ACQUIRING LAND.—

(1) In this subsection, land is needed for an airport purpose (except a noise compatibility purpose) if—

(A)(i) the land may be needed for an aeronautical purpose (including runway protection zone) or serves as noise buffer land; and

(ii) revenue from interim uses of the land contributes to the financial self-sufficiency of the airport; and

(B) for land purchased with a grant the owner or operator received not later than December 30, 1987, the Secretary of Transportation or the department, agency, or instrumentality of the Government that made the grant was notified by the owner or operator of the use of the land and did not object to the use and the land is still being used for that purpose.

(2) The Secretary of Transportation may approve an application under this subchapter for an airport development project grant only if the Secretary receives written assurances, satisfactory to the Secretary, that if an airport owner or operator has received or will receive a grant for acquiring land and—

(A) if the land was or will be acquired for a noise compatibility purpose (including land serving as a noise buffer either by being undeveloped or developed in a way that is compatible with using the land for noise buffering purposes)—

(i) the owner or operator will dispose of the land at fair market value at the earliest practicable time after the land no longer is needed for a noise compatibility purpose;

(ii) the disposition will be subject to retaining or reserving an interest in the land necessary to ensure that the land will be used in a way that is compatible with noise levels associated with operating the airport; and

(iii) the part of the proceeds from disposing of the land that is proportional to the Government's share of the cost of acquiring the land will be reinvested in another project at the airport or transferred to another airport as the Secretary prescribes under paragraph (4); or

(B) if the land was or will be acquired for an airport purpose (except a noise compatibility purpose)—

(i) the owner or operator, when the land no longer is needed for an airport purpose, will dispose of the land at fair market value or make available to the Secretary an amount equal to the Government's proportional share of the fair market value;

(ii) the disposition will be subject to retaining or reserving an interest in the land necessary to ensure that the land will be used in a way that is compatible with noise levels associated with operating the airport; and

(iii) the part of the proceeds from disposing of the land that is proportional to the Government's share of the cost of acquiring the land will be reinvested in another project at the airport or transferred to another airport as the Secretary prescribes under paragraph (4).

(3) Proceeds referred to in paragraph (2)(A)(iii) and (B)(iii) of this subsection and deposited in the Airport and Airway Trust Fund are available as provided in subsection (f) of this section.

(4) In approving the reinvestment or transfer of proceeds under paragraph (2)(A)(iii) or (2)(B)(iii), the Secretary shall give preference, in descending order, to the following actions:

(A) Reinvestment in an approved noise compatibility project.

(B) Reinvestment in an approved project that is eligible for funding under section 47117(e).

(C) Reinvestment in an approved airport development project that is eligible for funding under section 47114, 47115, or 47117.

(D) Transfer to a sponsor of another public airport to be reinvested in an approved noise compatibility project at that airport.

(E) Payment to the Secretary for deposit in the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986.

(5)(A) A lease at fair market value by an airport owner or operator of land acquired for a noise compatibility purpose using a grant provided under this subchapter shall not be considered a disposal for purposes of paragraph (2).

(B) The airport owner or operator may use revenues from a lease described in subparagraph (A) for an approved airport development project that is eligible for funding under section 47114, 47115, or 47117.

(C) The Secretary shall coordinate with each airport owner or operator to ensure that leases described in subparagraph (A) are consistent with noise buffering purposes.

(D) The provisions of this paragraph apply to all land acquired before, on, or after the date of enactment of this paragraph.

(d) ASSURANCES OF CONTINUATION AS PUBLIC-USE AIRPORT.—The Secretary of Transportation

may approve an application under this subchapter for an airport development project grant for a privately owned public-use airport only if the Secretary receives appropriate assurances that the airport will continue to function as a public-use airport during the economic life (that must be at least 10 years) of any facility at the airport that was developed with Government financial assistance under this subchapter.

(e) WRITTEN ASSURANCES OF OPPORTUNITIES FOR SMALL BUSINESS CONCERNS.—(1) The Secretary of Transportation may approve a project grant application under this subchapter for an airport development project only if the Secretary receives written assurances, satisfactory to the Secretary, that the airport owner or operator will take necessary action to ensure, to the maximum extent practicable, that at least 10 percent of all businesses at the airport selling consumer products or providing consumer services to the public are small business concerns (as defined by regulations of the Secretary) owned and controlled by a socially and economically disadvantaged individual (as defined in section 47113(a) of this title) or qualified HUBZone small business concerns (as defined in section 31(b) of the Small Business Act).

(2) An airport owner or operator may meet the percentage goal of paragraph (1) of this subsection by including any business operated through a management contract or subcontract. The dollar amount of a management contract or subcontract with a disadvantaged business enterprise shall be added to the total participation by disadvantaged business enterprises in airport concessions and to the base from which the airport's percentage goal is calculated. The dollar amount of a management contract or subcontract with a non-disadvantaged business enterprise and the gross revenue of business activities to which the management contract or subcontract pertains may not be added to this base.

(3) Except as provided in paragraph (4) of this subsection, an airport owner or operator may meet the percentage goal of paragraph (1) of this subsection by including the purchase from disadvantaged business enterprises of goods and services used in businesses conducted at the airport, but the owner or operator and the businesses conducted at the airport shall make good faith efforts to explore all available options to achieve, to the maximum extent practicable, compliance with the goal through direct ownership arrangements, including joint ventures and franchises.

(4)(A) In complying with paragraph (1) of this subsection, an airport owner or operator shall include the revenues of car rental firms at the airport in the base from which the percentage goal in paragraph (1) is calculated.

(B) An airport owner or operator may require a car rental firm to meet a requirement under paragraph (1) of this subsection by purchasing or leasing goods or services from a disadvantaged business enterprise. If an owner or operator requires such a purchase or lease, a car rental firm shall be permitted to meet the requirement by including purchases or leases of vehicles from any vendor that qualifies as a small business concern owned and controlled by a socially and economically disadvantaged individual or as a

qualified HUBZone small business concern (as defined in section 31(b) of the Small Business Act).

(C) This subsection does not require a car rental firm to change its corporate structure to provide for direct ownership arrangements to meet the requirements of this subsection.

(5) This subsection does not preempt—

(A) a State or local law, regulation, or policy enacted by the governing body of an airport owner or operator; or

(B) the authority of a State or local government or airport owner or operator to adopt or enforce a law, regulation, or policy related to disadvantaged business enterprises.

(6) An airport owner or operator may provide opportunities for a small business concern owned and controlled by a socially and economically disadvantaged individual or a qualified HUBZone small business concern (as defined in section 31(b) of the Small Business Act) to participate through direct contractual agreement with that concern.

(7) An air carrier that provides passenger or property-carrying services or another business that conducts aeronautical activities at an airport may not be included in the percentage goal of paragraph (1) of this subsection for participation of small business concerns at the airport.

(8) Not later than April 29, 1993, the Secretary of Transportation shall prescribe regulations to carry out this subsection.

(f) AVAILABILITY OF AMOUNTS.—An amount deposited in the Airport and Airway Trust Fund under—

(1) subsection (c)(2)(A)(iii) of this section is available to the Secretary of Transportation to make a grant for airport development or airport planning under section 47104 of this title;

(2) subsection (c)(2)(B)(iii) of this section is available to the Secretary—

(A) to make a grant for a purpose described in section 47115(b) of this title; and

(B) for use under section 47114(d)(2) of this title at another airport in the State in which the land was disposed of under subsection (c)(2)(B)(ii) of this section; and

(3) subsection (c)(2)(B)(iii) of this section is in addition to an amount made available to the Secretary under section 48103 of this title and not subject to apportionment under section 47114 of this title.

(g) ENSURING COMPLIANCE.—(1) To ensure compliance with this section, the Secretary of Transportation—

(A) shall prescribe requirements for sponsors that the Secretary considers necessary; and

(B) may make a contract with a public agency.

(2) The Secretary of Transportation may approve an application for a project grant only if the Secretary is satisfied that the requirements prescribed under paragraph (1)(A) of this subsection have been or will be met.

(h) MODIFYING ASSURANCES AND REQUIRING COMPLIANCE WITH ADDITIONAL ASSURANCES.—

(1) IN GENERAL.—Subject to paragraph (2), before modifying an assurance required of a

person receiving a grant under this subchapter and in effect after December 29, 1987, or to require compliance with an additional assurance from the person, the Secretary of Transportation must—

(A) publish notice of the proposed modification in the Federal Register; and

(B) provide an opportunity for comment on the proposal.

(2) PUBLIC NOTICE BEFORE WAIVER OF AERONAUTICAL LAND-USE ASSURANCE.—Before modifying an assurance under subsection (c)(2)(B) that requires any property to be used for an aeronautical purpose, the Secretary must provide notice to the public not less than 30 days before making such modification.

(i) RELIEF FROM OBLIGATION TO PROVIDE FREE SPACE.—When a sponsor provides a property interest in a land or water area or a building that the Secretary of Transportation uses to construct a facility at Government expense, the Secretary may relieve the sponsor from an obligation in a contract made under this chapter, the Airport and Airway Development Act of 1970, or the Federal Airport Act to provide free space to the Government in an airport building, to the extent the Secretary finds that the free space no longer is needed to carry out activities related to air traffic control or navigation.

(j) USE OF REVENUE IN HAWAII.—(1) In this subsection—

(A) “duty-free merchandise” and “duty-free sales enterprise” have the same meanings given those terms in section 555(b)(8) of the Tariff Act of 1930 (19 U.S.C. 1555(b)(8)).

(B) “highway” and “Federal-aid system” have the same meanings given those terms in section 101(a) of title 23.

(2) Notwithstanding subsection (b)(1) of this section, Hawaii may use, for a project for construction or reconstruction of a highway on a Federal-aid system that is not more than 10 miles by road from an airport and that will facilitate access to the airport, revenue from the sales at off-airport locations in Hawaii of duty-free merchandise under a contract between Hawaii and a duty-free sales enterprise. However, the revenue resulting during a Hawaiian fiscal year may be used only if the amount of the revenue, plus amounts Hawaii receives in the fiscal year from all other sources for costs Hawaii incurs for operating all airports it operates and for debt service related to capital projects for the airports (including interest and amortization of principal costs), is more than 150 percent of the projected costs for the fiscal year.

(3)(A) Revenue from sales referred to in paragraph (2) of this subsection in a Hawaiian fiscal year that Hawaii may use may not be more than the amount that is greater than 150 percent as determined under paragraph (2).

(B) The maximum amount of revenue Hawaii may use under paragraph (2) of this subsection is \$250,000,000.

(4) If a fee imposed or collected for rent, landing, or service from an aircraft operator by an airport operated by Hawaii is increased during the period from May 4, 1990, through December 31, 1994, by more than the percentage change in the Consumer Price Index of All Urban Con-

sumers for Honolulu, Hawaii, that the Secretary of Labor publishes during that period and if revenue derived from the fee increases because the fee increased, the amount under paragraph (3)(B) of this subsection shall be reduced by the amount of the projected revenue increase in the period less the part of the increase attributable to changes in the Index in the period.

(5) Hawaii shall determine costs, revenue, and projected revenue increases referred to in this subsection and shall submit the determinations to the Secretary of Transportation. A determination is approved unless the Secretary disapproves it not later than 30 days after it is submitted.

(6) Hawaii is not eligible for a grant under section 47115 of this title in a fiscal year in which Hawaii uses under paragraph (2) of this subsection revenue from sales referred to in paragraph (2). Hawaii shall repay amounts it receives in a fiscal year under a grant it is not eligible to receive because of this paragraph to the Secretary of Transportation for deposit in the discretionary fund established under section 47115.

(7)(A) This subsection applies only to revenue from sales referred to in paragraph (2) of this subsection from May 5, 1990, through December 30, 1994, and to amounts in the Airport Revenue Fund of Hawaii that are attributable to revenue before May 4, 1990, on sales referred to in paragraph (2).

(B) Revenue from sales referred to in paragraph (2) of this subsection from May 5, 1990, through December 30, 1994, may be used under paragraph (2) in any Hawaiian fiscal year, including a Hawaiian fiscal year beginning after December 31, 1994.

(k) POLICIES AND PROCEDURES TO ENSURE ENFORCEMENT AGAINST ILLEGAL DIVERSION OF AIRPORT REVENUE.—

(1) IN GENERAL.—Not later than 90 days after August 23, 1994, the Secretary of Transportation shall establish policies and procedures that will assure the prompt and effective enforcement of subsections (a)(13) and (b) of this section and grant assurances made under such subsections. Such policies and procedures shall recognize the exemption provision in subsection (b)(2) of this section and shall respond to the information contained in the reports of the Inspector General of the Department of Transportation on airport revenue diversion and such other relevant information as the Secretary may by law consider.

(2) REVENUE DIVERSION.—Policies and procedures to be established pursuant to paragraph (1) of this subsection shall prohibit, at a minimum, the diversion of airport revenues (except as authorized under subsection (b) of this section) through—

(A) direct payments or indirect payments, other than payments reflecting the value of services and facilities provided to the airport;

(B) use of airport revenues for general economic development, marketing, and promotional activities unrelated to airports or airport systems;

(C) payments in lieu of taxes or other assessments that exceed the value of services provided; or

(D) payments to compensate nonsponsoring governmental bodies for lost tax revenues exceeding stated tax rates.

(3) EFFORTS TO BE SELF-SUSTAINING.—With respect to subsection (a)(13) of this section, policies and procedures to be established pursuant to paragraph (1) of this subsection shall take into account, at a minimum, whether owners and operators of airports, when entering into new or revised agreements or otherwise establishing rates, charges, and fees, have undertaken reasonable efforts to make their particular airports as self-sustaining as possible under the circumstances existing at such airports.

(4) ADMINISTRATIVE SAFEGUARDS.—Policies and procedures to be established pursuant to paragraph (1) shall mandate internal controls, auditing requirements, and increased levels of Department of Transportation personnel sufficient to respond fully and promptly to complaints received regarding possible violations of subsections (a)(13) and (b) of this section and grant assurances made under such subsections and to alert the Secretary to such possible violations.

(5) STATUTE OF LIMITATIONS.—In addition to the statute of limitations specified in subsection (m)(7), with respect to project grants made under this chapter—

(A) any request by a sponsor or any other governmental entity to any airport for additional payments for services conducted off of the airport or for reimbursement for capital contributions or operating expenses shall be filed not later than 6 years after the date on which the expense is incurred; and

(B) any amount of airport funds that are used to make a payment or reimbursement as described in subparagraph (A) after the date specified in that subparagraph shall be considered to be an illegal diversion of airport revenues that is subject to subsection (m).

(I) AUDIT CERTIFICATION.—

(1) IN GENERAL.—The Secretary of Transportation, acting through the Administrator of the Federal Aviation Administration, shall include a provision in the compliance supplement provisions to require a recipient of a project grant (or any other recipient of Federal financial assistance that is provided for an airport) to include as part of an annual audit conducted under sections 7501 through 7505 of title 31, a review concerning the funding activities with respect to an airport that is the subject of the project grant (or other Federal financial assistance) and the sponsors, owners, or operators (or other recipients) involved.

(2) CONTENT OF REVIEW.—A review conducted under paragraph (1) shall provide reasonable assurances that funds paid or transferred to sponsors are paid or transferred in a manner consistent with the applicable requirements of this chapter and any other applicable provision of law (including regulations promulgated by the Secretary or the Administrator).

(m) RECOVERY OF ILLEGALLY DIVERTED FUNDS.—

(1) IN GENERAL.—Not later than 180 days after the issuance of an audit or any other report that identifies an illegal diversion of airport revenues (as determined under subsections (b) and (k) and section 47133), the Secretary, acting through the Administrator, shall—

(A) review the audit or report;

(B) perform appropriate factfinding; and

(C) conduct a hearing and render a final determination concerning whether the illegal diversion of airport revenues asserted in the audit or report occurred.

(2) NOTIFICATION.—Upon making such a finding, the Secretary, acting through the Administrator, shall provide written notification to the sponsor and the airport of—

(A) the finding; and

(B) the obligations of the sponsor to reimburse the airport involved under this paragraph.

(3) ADMINISTRATIVE ACTION.—The Secretary may withhold any amount from funds that would otherwise be made available to the sponsor, including funds that would otherwise be made available to a State, municipality, or political subdivision thereof (including any multimodal transportation agency or transit authority of which the sponsor is a member entity) as part of an apportionment or grant made available pursuant to this title, if the sponsor—

(A) receives notification that the sponsor is required to reimburse an airport; and

(B) has had an opportunity to reimburse the airport, but has failed to do so.

(4) CIVIL ACTION.—If a sponsor fails to pay an amount specified under paragraph (3) during the 180-day period beginning on the date of notification and the Secretary is unable to withhold a sufficient amount under paragraph (3), the Secretary, acting through the Administrator, may initiate a civil action under which the sponsor shall be liable for civil penalty in an amount equal to the illegal diversion in question plus interest (as determined under subsection (n)).

(5) DISPOSITION OF PENALTIES.—

(A) AMOUNTS WITHHELD.—The Secretary or the Administrator shall transfer any amounts withheld under paragraph (3) to the Airport and Airway Trust Fund.

(B) CIVIL PENALTIES.—With respect to any amount collected by a court in a civil action under paragraph (4), the court shall cause to be transferred to the Airport and Airway Trust Fund any amount collected as a civil penalty under paragraph (4).

(6) REIMBURSEMENT.—The Secretary, acting through the Administrator, shall, as soon as practicable after any amount is collected from a sponsor under paragraph (4), cause to be transferred from the Airport and Airway Trust Fund to an airport affected by a diversion that is the subject of a civil action under paragraph (4), reimbursement in an amount equal to the amount that has been collected from the sponsor under paragraph (4) (including any amount of interest calculated under subsection (n)).

(7) STATUTE OF LIMITATIONS.—No person may bring an action for the recovery of funds illegally diverted in violation of this section (as determined under subsections (b) and (k)) or section 47133 after the date that is 6 years after the date on which the diversion occurred.

(n) INTEREST.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary, acting through the Administrator, shall charge a minimum annual rate of interest on the amount of any illegal diversion of revenues referred to in subsection (m) in an amount equal to the average investment interest rate for tax and loan accounts of the Department of the Treasury (as determined by the Secretary of the Treasury) for the applicable calendar year, rounded to the nearest whole percentage point.

(2) ADJUSTMENT OF INTEREST RATES.—If, with respect to a calendar quarter, the average investment interest rate for tax and loan accounts of the Department of the Treasury exceeds the average investment interest rate for the immediately preceding calendar quarter, rounded to the nearest whole percentage point, the Secretary of the Treasury may adjust the interest rate charged under this subsection in a manner that reflects that change.

(3) ACCRUAL.—Interest assessed under subsection (m) shall accrue from the date of the actual illegal diversion of revenues referred to in subsection (m).

(4) DETERMINATION OF APPLICABLE RATE.—The applicable rate of interest charged under paragraph (1) shall—

(A) be the rate in effect on the date on which interest begins to accrue under paragraph (3); and

(B) remain at a rate fixed under subparagraph (A) during the duration of the indebtedness.

(o) PAYMENT BY AIRPORT TO SPONSOR.—If, in the course of an audit or other review conducted under this section, the Secretary or the Administrator determines that an airport owes a sponsor funds as a result of activities conducted by the sponsor or expenditures by the sponsor for the benefit of the airport, interest on that amount shall be determined in the same manner as provided in paragraphs (1) through (4) of subsection (n), except that the amount of any interest assessed under this subsection shall be determined from the date on which the Secretary or the Administrator makes that determination.

(p) Notwithstanding any written assurances prescribed in subsections (a) through (o), a general aviation airport with more than 300,000 annual operations may be exempt from having to accept scheduled passenger air carrier service, provided that the following conditions are met:

(1) No scheduled passenger air carrier has provided service at the airport within 5 years prior to January 1, 2002.

(2) The airport is located within or underneath the Class B airspace of an airport that maintains an airport operating certificate pursuant to section 44706 of title 49.

(3) The certificated airport operating under section 44706 of title 49 does not contribute to significant passenger delays as defined by

DOT/FAA in the “Airport Capacity Benchmark Report 2001”.

(q) An airport that meets the conditions of paragraphs (1) through (3) of subsection (p) is not subject to section 47524 of title 49 with respect to a prohibition on all scheduled passenger service.

(r) COMPETITION DISCLOSURE REQUIREMENT.—

(1) IN GENERAL.—The Secretary of Transportation may approve an application under this subchapter for an airport development project grant for a large hub airport or a medium hub airport only if the Secretary receives assurances that the airport sponsor will provide the information required by paragraph (2) at such time and in such form as the Secretary may require.

(2) COMPETITIVE ACCESS.—On February 1 and August 1 of each year, an airport that during the previous 6-month period has been unable to accommodate one or more requests by an air carrier for access to gates or other facilities at that airport in order to provide service to the airport or to expand service at the airport shall transmit a report to the Secretary that—

(A) describes the requests;

(B) provides an explanation as to why the requests could not be accommodated; and

(C) provides a time frame within which, if any, the airport will be able to accommodate the requests.

(3) SUNSET PROVISION.—This subsection shall cease to be effective beginning March 9, 2024.

(s) AGREEMENTS GRANTING THROUGH-THE-FENCE ACCESS TO GENERAL AVIATION AIRPORTS.—

(1) IN GENERAL.—Subject to paragraph (2), a sponsor of a general aviation airport shall not be considered to be in violation of this subtitle, or to be in violation of a grant assurance made under this section or under any other provision of law as a condition for the receipt of Federal financial assistance for airport development, solely because the sponsor enters into an agreement that grants to a person that owns residential real property adjacent to or near the airport access to the airfield of the airport for the following:

(A) Aircraft of the person.

(B) Aircraft authorized by the person.

(2) THROUGH-THE-FENCE AGREEMENTS.—

(A) IN GENERAL.—An agreement described in paragraph (1) between an airport sponsor and a property owner (or an association representing such property owner) shall be a written agreement that prescribes the rights, responsibilities, charges, duration, and other terms the airport sponsor determines are necessary to establish and manage the airport sponsor's relationship with the property owner.

(B) TERMS AND CONDITIONS.—An agreement described in paragraph (1) between an airport sponsor and a property owner (or an association representing such property owner) shall require the property owner, at minimum—

(i) to pay airport access charges that, as determined by the airport sponsor, are

comparable to those charged to tenants and operators on-airport making similar use of the airport;

(ii) to bear the cost of building and maintaining the infrastructure that, as determined by the airport sponsor, is necessary to provide aircraft located on the property adjacent to or near the airport access to the airfield of the airport;

(iii) to maintain the property for residential, noncommercial use for the duration of the agreement;

(iv) to prohibit access to the airport from other properties through the property of the property owner; and

(v) to prohibit any aircraft refueling from occurring on the property.

(3) EXEMPTION.—The terms and conditions of paragraph (2) shall not apply to an agreement described in paragraph (1) made before the enactment of the FAA Modernization and Reform Act of 2012 (Public Law 112-95) that the Secretary determines does not comply with such terms and conditions but involves property that is subject to deed or lease restrictions that are considered perpetual and that cannot readily be brought into compliance. However, if the Secretary determines that the airport sponsor and residential property owners are able to make any modification to such an agreement on or after the date of enactment of this paragraph, the exemption provided by this paragraph shall no longer apply.

(t) RENEWAL OF CERTAIN LEASES.—

(1) IN GENERAL.—Notwithstanding subsection (a)(13), an airport owner or operator who renews a covered lease shall not be treated as violating a written assurance requirement under this section as a result of such renewal.

(2) COVERED LEASE DEFINED.—In this subsection, the term “covered lease” means a lease—

(A) originally entered into before the date of enactment of this subsection;

(B) under which a nominal lease rate is provided;

(C) under which the lessee is a Federal or State government entity; and

(D) that supports the operation of military aircraft by the Air Force or Air National Guard—

(i) at the airport; or

(ii) remotely from the airport.

(u) CONSTRUCTION OF RECREATIONAL AIRCRAFT.—

(1) IN GENERAL.—The construction of a covered aircraft shall be treated as an aeronautical activity for purposes of—

(A) determining an airport’s compliance with a grant assurance made under this section or any other provision of law; and

(B) the receipt of Federal financial assistance for airport development.

(2) COVERED AIRCRAFT DEFINED.—In this subsection, the term “covered aircraft” means an aircraft—

(A) used or intended to be used exclusively for recreational purposes; and

(B) constructed or under construction by a private individual at a general aviation airport.

(v) COMMUNITY USE OF AIRPORT LAND.—

(1) IN GENERAL.—Notwithstanding subsection (a)(13), and subject to paragraph (2), the sponsor of a public-use airport shall not be considered to be in violation of this subtitle, or to be found in violation of a grant assurance made under this section, or under any other provision of law, as a condition for the receipt of Federal financial assistance for airport development, solely because the sponsor has entered into an agreement, including a revised agreement, with a local government providing for the use of airport property for an interim compatible recreational purpose at below fair market value.

(2) RESTRICTIONS.—This subsection shall apply only—

(A) to an agreement regarding airport property that was initially entered into before the publication of the Federal Aviation Administration’s Policy and Procedures Concerning the Use of Airport Revenue, dated February 16, 1999;

(B) if the agreement between the sponsor and the local government is subordinate to any existing or future agreements between the sponsor and the Secretary, including agreements related to a grant assurance under this section;

(C) to airport property that was acquired under a Federal airport development grant program;

(D) if the airport sponsor has provided a written statement to the Administrator that the property made available for a recreational purpose will not be needed for any aeronautical purpose during the next 10 years;

(E) if the agreement includes a term of not more than 2 years to prepare the airport property for the interim compatible recreational purpose and not more than 10 years of use for that purpose;

(F) if the recreational purpose will not impact the aeronautical use of the airport;

(G) if the airport sponsor provides a certification that the sponsor is not responsible for preparation, start-up, operations, maintenance, or any other costs associated with the recreational purpose; and

(H) if the recreational purpose is consistent with Federal land use compatibility criteria under section 47502.

(3) STATUTORY CONSTRUCTION.—Nothing in this subsection may be construed as permitting a diversion of airport revenue for the capital or operating costs associated with the community use of airport land.

(w) MOTHERS’ ROOMS.—

(1) IN GENERAL.—The Secretary of Transportation may approve an application under this subchapter for an airport development project grant only if the Secretary receives written assurances that the airport owner or operator will maintain—

(A) a lactation area in the sterile area of each passenger terminal building of the airport; and

(B) a baby changing table in at least one men’s and at least one women’s restroom in

each passenger terminal building of the airport.

(2) APPLICABILITY.—

(A) AIRPORT SIZE.—

(i) IN GENERAL.—The requirements in paragraph (1) shall only apply to applications submitted by the airport sponsor of—

(I) a medium or large hub airport in fiscal year 2021 and each fiscal year thereafter; and

(II) an applicable small hub airport in fiscal year 2023 and each fiscal year thereafter.

(ii) APPLICABLE SMALL HUB AIRPORT DEFINED.—In clause (i)(II), the term “applicable small hub airport” means an airport designated as a small hub airport during—

(I) the 3-year period consisting of 2020, 2021, and 2022; or

(II) any consecutive 3-year period beginning after 2020.

(B) PREEXISTING FACILITIES.—On application by an airport sponsor, the Secretary may determine that a lactation area in existence on October 5, 2018, complies with the requirement in paragraph (1)(A), notwithstanding the absence of one of the facilities or characteristics referred to in the definition of the term “lactation area” in this subsection.

(C) SPECIAL RULE.—The requirement in paragraph (1)(A) shall not apply with respect to a project grant application for a period of time, determined by the Secretary, if the Secretary determines that construction or maintenance activities make it impracticable or unsafe for the lactation area to be located in the sterile area of the building.

(3) DEFINITION.—In this section, the term—

(A) “lactation area” means a room or similar accommodation that—

(i) provides a location for members of the public to express breast milk that is shielded from view and free from intrusion from the public;

(ii) has a door that can be locked;

(iii) includes a place to sit, a table or other flat surface, a sink or sanitizing equipment, and an electrical outlet;

(iv) is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs; and

(v) is not located in a restroom; and

(B) “sterile area” has the same meaning given that term in section 1540.5 of title 49, Code of Federal Regulations.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1256; Pub. L. 103–305, title I, §§111(a), (c), 112(a), Aug. 23, 1994, 108 Stat. 1573, 1574; Pub. L. 104–264, title I, §143, title VIII, §805(a), (b)(2), Oct. 9, 1996, 110 Stat. 3221, 3271, 3274; Pub. L. 104–287, §5(9), (80), Oct. 11, 1996, 110 Stat. 3389, 3397; Pub. L. 105–135, title VI, §604(h)(1), Dec. 2, 1997, 111 Stat. 2634; Pub. L. 106–181, title I, §125(a), Apr. 5, 2000, 114 Stat. 75; Pub. L. 107–217, §3(n)(7), Aug. 21, 2002, 116 Stat. 1303; Pub. L. 108–7, div. I, title III, §321(a), Feb. 20, 2003, 117 Stat. 411; Pub. L. 108–11, title II, §2702, Apr. 16, 2003, 117 Stat. 600; Pub. L.

108–176, title I, §§144, 164, 165, title IV, §424, Dec. 12, 2003, 117 Stat. 2503, 2513, 2514, 2554; Pub. L. 110–330, §5(e), Sept. 30, 2008, 122 Stat. 3718; Pub. L. 111–12, §5(d), Mar. 30, 2009, 123 Stat. 1458; Pub. L. 111–69, §5(e), Oct. 1, 2009, 123 Stat. 2055; Pub. L. 111–116, §5(d), Dec. 16, 2009, 123 Stat. 3032; Pub. L. 111–153, §5(d), Mar. 31, 2010, 124 Stat. 1085; Pub. L. 111–161, §5(d), Apr. 30, 2010, 124 Stat. 1127; Pub. L. 111–197, §5(d), July 2, 2010, 124 Stat. 1354; Pub. L. 111–216, title I, §104(d), Aug. 1, 2010, 124 Stat. 2349; Pub. L. 111–249, §5(e), Sept. 30, 2010, 124 Stat. 2628; Pub. L. 111–329, §5(d), Dec. 22, 2010, 124 Stat. 3567; Pub. L. 112–7, §5(d), Mar. 31, 2011, 125 Stat. 32; Pub. L. 112–16, §5(d), May 31, 2011, 125 Stat. 219; Pub. L. 112–21, §5(d), June 29, 2011, 125 Stat. 234; Pub. L. 112–27, §5(d), Aug. 5, 2011, 125 Stat. 271; Pub. L. 112–30, title II, §205(e), Sept. 16, 2011, 125 Stat. 358; Pub. L. 112–91, §5(e), Jan. 31, 2012, 126 Stat. 4; Pub. L. 112–95, title I, §§135, 136(a), title IV, §404, Feb. 14, 2012, 126 Stat. 22, 23, 85; Pub. L. 113–188, title XV, §1501(b)(1), (2)(A), Nov. 26, 2014, 128 Stat. 2023, 2024; Pub. L. 114–55, title I, §102(a), Sept. 30, 2015, 129 Stat. 523; Pub. L. 114–141, title I, §102(a), Mar. 30, 2016, 130 Stat. 323; Pub. L. 114–190, title I, §1102(a), July 15, 2016, 130 Stat. 617; Pub. L. 114–238, §1, Oct. 7, 2016, 130 Stat. 972; Pub. L. 115–63, title I, §102(a), Sept. 29, 2017, 131 Stat. 1169; Pub. L. 115–91, div. A, title XVII, §1701(a)(4)(G)(i), Dec. 12, 2017, 131 Stat. 1796; Pub. L. 115–141, div. M, title I, §102(a), Mar. 23, 2018, 132 Stat. 1046; Pub. L. 115–254, div. B, title I, §§131, 132(a), 163(d), 185, Oct. 5, 2018, 132 Stat. 3203–3205, 3224, 3234; Pub. L. 116–190, §2, Oct. 30, 2020, 134 Stat. 974; Pub. L. 118–15, div. B, title II, §2202(e), Sept. 30, 2023, 137 Stat. 83; Pub. L. 118–34, title I, §102(e), Dec. 26, 2023, 137 Stat. 1113.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
47107(a)	49 App.:2202(a)(6).	Sept. 3, 1982, Pub. L. 97–248, §§503(a)(6), 505(b)(2), 509(b)(1)(E), 511(a)(1)(B), (C), (2), (5)–(10), (b), 96 Stat. 673, 677, 683, 686, 687.
	49 App.:2208(b)(1)(E) (related to 49 App.:2210(a) (1)–(11), (15), (16)).	
	49 App.:2210(a)(1)(A).	Sept. 3, 1982, Pub. L. 97–248, §511(a)(1)(A), 96 Stat. 686; Dec. 30, 1987, Pub. L. 100–223, §109(a), 101 Stat. 1499.
	49 App.:2210(a)(1)(B), (C), (2).	
	49 App.:2210(a)(3).	Sept. 3, 1982, Pub. L. 97–248, §511(a)(3), 96 Stat. 686; Dec. 30, 1987, Pub. L. 100–223, §109(b), 101 Stat. 1499.
	49 App.:2210(a)(4).	Sept. 3, 1982, Pub. L. 97–248, §511(a)(4), 96 Stat. 686; re-stated Dec. 30, 1987, Pub. L. 100–223, §109(c), 101 Stat. 1499.
	49 App.:2210(a) (5)–(10).	
	49 App.:2210(a)(11).	Sept. 3, 1982, Pub. L. 97–248, §511(a)(11), 96 Stat. 687; Oct. 31, 1992, Pub. L. 102–581, §113(a), 106 Stat. 4881.
	49 App.:2210(a)(15).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, §511(a)(15); added Dec. 30, 1987, Pub. L. 100–223, §109(f), 101 Stat. 1500.
	49 App.:2210(a)(16).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, §511(a)(16); added Dec. 30, 1987, Pub. L. 100–223, §109(g), 101 Stat. 1501.

HISTORICAL AND REVISION NOTES—CONTINUED

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
47107(b)(1), (2).	49 App.:2208(b)(1)(E) (related to 49 App.:2210(a)(12)). 49 App.:2210(a)(12).	Sept. 3, 1982, Pub. L. 97-248, § 511(a)(12), 96 Stat. 687; restated Dec. 30, 1987, Pub. L. 100-223, § 109(d), 101 Stat. 1499.
47107(b)(3) ..	49 App.:2210(d).	Sept. 3, 1982, Pub. L. 97-248, 96 Stat. 324, § 511(d); added Dec. 30, 1987, Pub. L. 100-223, § 109(i), 101 Stat. 1501.
47107(c)(1), (2).	49 App.:2202(a)(24). 49 App.:2208(b)(1)(E) (related to 49 App.:2210(a)(13), (14)). 49 App.:2210(a)(13). 49 App.:2210(a)(14).	Sept. 3, 1982, Pub. L. 97-248, § 503(a)(24), 96 Stat. 674; Dec. 30, 1987, Pub. L. 100-223, § 103(c)(1), 101 Stat. 1488. Sept. 3, 1982, Pub. L. 97-248, § 511(a)(13), 96 Stat. 688; restated Dec. 30, 1987, Pub. L. 100-223, § 109(e), 101 Stat. 1499. Sept. 3, 1982, Pub. L. 97-248, § 511(a)(14), 96 Stat. 688; Dec. 30, 1987, Pub. L. 100-223, § 109(e), 101 Stat. 1499; restated Dec. 15, 1989, Pub. L. 101-236, § 4, 103 Stat. 2061.
47107(c)(3) .. 47107(d)	(no source). 49 App.:2204(b)(2). 49 App.:2208(b)(1)(E) (related to 49 App.:2204(b)(2)).	
47107(e)	49 App.:2208(b)(1)(E) (related to 49 App.:2210(a)(17)). 49 App.:2210(a)(17). 49 App.:2210(h). 49 App.:2210 (note).	Sept. 3, 1982, Pub. L. 97-248, 96 Stat. 324, § 511(a)(17); added Dec. 30, 1987, Pub. L. 100-223, § 109(h), 101 Stat. 1501; Oct. 31, 1992, Pub. L. 102-581, § 117(a), 106 Stat. 4882. Sept. 3, 1982, Pub. L. 97-248, 96 Stat. 324, § 511(h); added Oct. 31, 1992, Pub. L. 102-581, § 117(b), 106 Stat. 4882. Oct. 31, 1992, Pub. L. 102-581, § 117(d), 106 Stat. 4883.
47107(f)	49 App.:2210(e).	Sept. 3, 1982, Pub. L. 97-248, 96 Stat. 324, § 511(e); added Dec. 30, 1987, Pub. L. 100-223, § 109(j), 101 Stat. 1501.
47107(g)(1) .. 47107(g)(2) ..	49 App.:2210(b) (1st, 2d sentences). 49 App.:2208(b)(1)(E) (related to 49 App.:2210(b)).	
47107(h)	49 App.:2210(f).	Sept. 3, 1982, Pub. L. 97-248, 96 Stat. 324, § 511(f); added Dec. 30, 1987, Pub. L. 100-223, § 109(k), 101 Stat. 1502.
47107(i)	49 App.:2210(b) (last sentence).	
47107(j)(1) ...	49 App.:2210(g)(4)(B), (D).	Sept. 3, 1982, Pub. L. 97-248, 96 Stat. 324, § 511(g); added May 4, 1990, Pub. L. 101-281, § 2, 104 Stat. 164.
47107(j)(2) ...	49 App.:2210(g)(1), (2)(B), (4)(A), (C).	
47107(j)(3) ...	49 App.:2210(g)(2)(C), (D).	
47107(j)(4) ...	49 App.:2210(g)(2)(E).	
47107(j)(5) ...	49 App.:2210(g)(2)(F).	
47107(j)(6) ...	49 App.:2210(g)(2)(G).	
47107(j) (7)(A).	49 App.:2210(g)(2)(A).	
47107(j) (7)(B).	49 App.:2210(g)(3).	

In subsection (a), before clause (1), the words “may approve a project grant application under this subchapter for an airport development project only if” are substituted for 49 App.:2208(b)(1)(E) (related to 49 App.:2210(a)) and the words “As a condition precedent to approval of an airport development project contained in a project grant application submitted under this chapter . . . shall” in 49 App.:2210(a) for clarity and to eliminate unnecessary words. In clause (1), the words

“to which the project relates” and “fair and” are omitted as surplus. In clause (2), before subclause (A), the words “including the requirement that” are omitted as unnecessary because of the restatement. The words “air carriers making similar use of the airport” are substituted for “each air carrier using such airport (whether as a tenant, nontenant, or subtenant of another air carrier tenant) . . . all such air carriers which make similar use of such airport” to eliminate unnecessary words. The words “and which utilize similar facilities” are omitted because of the definition of “airport” in section 47102 of the revised title. The words “nondiscriminatory and” and “rates, fees, rentals, and other” are omitted as surplus. In subclause (B), before subclause (i), the words “except for differences based on” are substituted for “subject to” for clarity. In clause (3), the words “airport operator” are substituted for “airport” for clarity and consistency in this chapter. In clause (4), before subclause (A), the words “a right given to only one fixed-base operator to provide services at an airport” are substituted for “the providing of services at an airport by a single fixed-based operator” for clarity. In subclause (B), the words “the airport operator or owner” are substituted for “such airport” for clarity and consistency in this subchapter. Clause (5) is substituted for 49 App.:2210(a)(1)(B) for consistency and to eliminate unnecessary words. In clause (6), the words “allowed by the airport operator” are substituted for “authorized by the airport or permitted by the airport” for clarity and consistency in this chapter and to eliminate unnecessary words. In clause (9), the words “operations at” are added for clarity. The words “adequately”, “removing, lowering, relocating, marking, or lighting or otherwise”, and “the establishment or creation of” are omitted as surplus. In clause (10), the word “near” is substituted for “in the immediate vicinity of”, and the word “uses” is substituted for “activities and purposes”, to eliminate unnecessary words. The words “including landing and takeoff of aircraft” are omitted as surplus. In clause (12), the words “property interests of the sponsor in land or water areas or buildings” are substituted for “any areas of land or water, or estate therein, or rights in buildings of the sponsor” for consistency in the revised title and to eliminate unnecessary words. The words “necessary or” are omitted as surplus. The words “for, and that will be used for, constructing . . . facilities for carrying out activities related to air traffic control or navigation” are substituted for “for use in connection with any air traffic control or navigation activities, or weather-reporting and communication activities related to air traffic control . . . for construction . . . of space or facilities for such purposes” to eliminate unnecessary words. In clause (13), before subclause (A), the words “schedule of charges” are substituted for “fee and rental structure” for clarity and consistency in this chapter. In subclause (A), the word “particular” is omitted as surplus. The word “including” is substituted for “taking into account such factors as” to eliminate unnecessary words. In subclause (B), the words “fees, rates, and” are omitted as surplus. The words “airport development or airport planning” are omitted because of the definition of “project” in section 47102 of the revised title. In clause (16), before subclause (A), the words “maintain . . . current” are substituted for “keep up to date at all times” to eliminate unnecessary words. In subclause (B), the words “be submitted to, and” and “amendment” are omitted as surplus. In subclauses (C) and (D), the words “changes or” and “change or”, respectively, are omitted as surplus. In subclause (D)(ii), the words “was made” are added for clarity. In clause (17), the words “with respect to the project” are omitted as surplus. In clause (18), the words “duly authorized agent of” are omitted because of 49:322(b).

In subsection (b)(1), before clause (A), the words “may approve a project grant application under this subchapter for an airport development project only if” are substituted for 49 App.:2208(b)(1)(E) (related to 49 App.:2210(a)(12)) and “As a condition precedent to ap-

proval of an airport development project contained in a project grant application submitted under this chapter . . . shall” in 49 App.:2210(a) for clarity and to eliminate unnecessary words. In clause (C) the word “actual” is omitted as surplus.

In subsection (b)(2), the words “Paragraph (1) of this subsection does not apply” are substituted for “except that . . . then this limitation on the use of all other revenues generated by the airport . . . shall not apply” to eliminate unnecessary words. The word “law” is substituted for “provisions . . . in governing statutes” for consistency in the revised title and to eliminate unnecessary words.

In subsection (c)(1), before clause (A), the words “considered to be” are omitted as surplus. In clause (B), the words “department, agency, or instrumentality of the Government” are substituted for “Federal agency” for consistency in the revised title and with other titles of the United States Code.

In subsection (c)(2), before clause (A), the words “may approve an application under this subchapter for an airport development project grant only if” are substituted for 49 App.:2208(b)(1)(E) (related to 49 App.:2210(a)(13), (14)) and “As a condition precedent to approval of an airport development project contained in a project grant application submitted under this chapter” in 49 App.:2210(a) for clarity and to eliminate unnecessary words. The words “has received or will receive” are substituted for “before, on, or after December 30, 1987” and “before, on, or after December 31, 1987” because of the restatement. In clauses (A)(ii) and (B)(ii), the words “or right” and “only” are omitted as surplus. In clause (A)(iii), the words “at the discretion of the Secretary” in 49 App.:2210(a)(13)(C) are omitted as surplus. In clause (B)(iii), the words “under this subchapter” are substituted for “at that airport or within the national airport system” for clarity and to eliminate unnecessary words.

Subsection (c)(3) is added for clarity.

In subsection (d), the words “may approve an application under this subchapter for an airport development project grant . . . only if” are substituted for 49 App.:2208(b)(1)(E) (related to 49 App.:2204(b)(2)) and “No obligation shall be incurred by the Secretary for airport development . . . unless” in 49 App.:2204(b) for clarity and to eliminate unnecessary words.

In subsection (e)(1), the words “may approve a project grant application under this subchapter for an airport development project only if” are substituted for 49 App.:2208(b)(1)(E) (related to 49 App.:2210(a)(17)) and “As a condition precedent to approval of an airport development project contained in a project grant application submitted under this chapter . . . shall” for clarity and to eliminate unnecessary words. The words “food, beverages, printed materials, or other” and “ground transportation, baggage carts, automobile rentals, or other” are omitted as surplus.

In subsection (e)(2)–(5), the words “disadvantaged business enterprise” are substituted for “DBE” for clarity.

In subsection (e)(4), the words “(as defined by the Secretary by regulation)” and “(as defined under section 2204(d)(2)(B) of this title)” are omitted as unnecessary because of paragraph (1) of this subsection.

In subsection (f)(2)(A), the words “at the discretion of the Secretary” are omitted as surplus. The words “at primary airports and reliever airports” are omitted as surplus because 49 App.:2206(c)(2), restated in section 47115(c) of the revised title, involves only primary and reliever airports.

In subsection (g)(1)(A), the words “consistent with the terms of this chapter” are omitted as surplus.

In subsection (g)(1)(B), the words “Among other steps to insure such compliance” and “on behalf of the United States” are omitted as surplus.

In subsection (g)(2), the words “by or . . . the authority of” are omitted as surplus.

In subsection (h), before clause (1), the words “proposes to” are omitted as surplus. The word “subchapter” is substituted for “Act” in section 511(f) of

the Airport and Airway Improvement Act of 1982, as added by section 109(k) of the Airport and Airway Safety and Capacity Expansion Act of 1987 (Public Law 100–223, 101 Stat. 1502), to correct a mistake.

In subsection (i), the words “a property interest in a land or water area or a building that the Secretary of Transportation uses to construct a facility” are substituted for “any area of land or water, or estate therein, or rights in buildings of the sponsor and constructs space or facilities thereon” for consistency in this section.

In subsection (j)(2), the words “the limitation on the use of revenues generated by airports contained in”, “located”, “of funds”, and “(including revenues generated by such airports from other sources, unrestricted cash on hand, and Federal funds made available under this chapter for expenditure at such airports)” are omitted as surplus.

In subsection (j)(3)(A), the words “amount that is greater than 150 percent as determined” are substituted for “amount of the excess determined” for clarity.

In subsection (j)(3)(B), the words “in the aggregate” are omitted as surplus.

In subsection (j)(4), the word “imposed” is substituted for “levied” for consistency in the revised title and with other titles of the Code. The words “for the use of airport facilities” and “a percentage which is” are omitted as surplus. The words “Secretary of Labor” are substituted for “Bureau of Labor Statistics of the Department of Labor” because of 29:551 and 557.

In subsection (j)(5), the words “from fee increases” and “for approval” are omitted as surplus.

Editorial Notes

REFERENCES IN TEXT

The Federal Airport Act, referred to in subsecs. (a)(13)(B) and (i), is act May 13, 1946, ch. 251, 60 Stat. 170, which was classified to chapter 14 (§1101 et seq.) of former Title 49, Transportation, prior to repeal by Pub. L. 91–258, title I, §52(a), May 21, 1970, 84 Stat. 235.

The Airport and Airway Development Act of 1970, referred to in subsecs. (a)(13)(B) and (i), is title I of Pub. L. 91–258, May 21, 1970, 84 Stat. 219, which was classified principally to chapter 25 (§1701 et seq.) of former Title 49, Transportation. Sections 1 through 30 of title I of Pub. L. 91–258, which enacted sections 1701 to 1703, 1711 to 1713, and 1714 to 1730 of former Title 49, and a provision set out as a note under section 1701 of former Title 49, were repealed by Pub. L. 97–248, title V, §523(a), Sept. 3, 1982, 96 Stat. 695. Sections 31, 51, 52(a), (b)(4), (6), (c), (d), and 53 of title I of Pub. L. 91–258 were repealed by Pub. L. 103–272, §7(b), July 5, 1994, 108 Stat. 1379, the first section of which enacted subtitles II, III, and V to X of Title 49, Transportation. For complete classification of this Act to the Code, see Tables. For disposition of sections of former Title 49, see table at the beginning of Title 49.

Section 9502 of the Internal Revenue Code of 1986, referred to in subsec. (c)(4)(E), is classified to section 9502 of Title 26, Internal Revenue Code.

The date of enactment of this paragraph, referred to in subsec. (c)(5)(D), is the date of enactment of Pub. L. 112–95, which was approved Feb. 14, 2012.

Section 31(b) of the Small Business Act, referred to in subsec. (e)(1), (4)(B), (6), is classified to section 657a(b) of Title 15, Commerce and Trade.

Section 101(a) of title 23, referred to in subsec. (j)(1)(B), was subsequently amended, and section 101(a) no longer defines “Federal-aid system”.

The enactment of the FAA Modernization and Reform Act of 2012, referred to in subsec. (s)(3), means the enactment of Pub. L. 112–95, which was approved Feb. 14, 2012.

The date of enactment of this paragraph, referred to in subsec. (s)(3), is the date of enactment of Pub. L. 115–254, which was approved Oct. 5, 2018.

The date of enactment of this subsection, referred to in subsec. (t)(2)(A), is the date of enactment of Pub. L. 114–238, which was approved Oct. 7, 2016.

AMENDMENTS

2023—Subsec. (r)(3). Pub. L. 118-34 substituted “March 9, 2024” for “January 1, 2024”.

Pub. L. 118-15 substituted “January 1, 2024” for “October 1, 2023”.

2020—Subsec. (w)(1). Pub. L. 116-190, §2(1), substituted “The Secretary of Transportation” for “In fiscal year 2021 and each fiscal year thereafter, the Secretary of Transportation”.

Subsec. (w)(1)(B). Pub. L. 116-190, §2(2), substituted “at least one men’s and at least one women’s” for “one men’s and one women’s”.

Subsec. (w)(2)(A). Pub. L. 116-190, §2(3), added subpar. (A) and struck out former subpar. (A) which read as follows: “The requirement in paragraph (1) shall only apply to applications submitted by the airport sponsor of a medium or large hub airport.”

Subsec. (w)(2)(B). Pub. L. 116-190, §2(4), substituted “October 5, 2018, complies with the requirement in paragraph (1)(A)” for “the date of enactment of this Act complies with the requirement in paragraph (1)”.

Subsec. (w)(2)(C). Pub. L. 116-190, §2(5), substituted “paragraph (1)(A)” for “paragraph (1)”.

2018—Subsec. (a)(16)(B). Pub. L. 115-254, §163(d)(1), added subpar. (B) and struck out former subpar. (B) which read as follows: “the Secretary will approve the plan and any revision or modification before the plan, revision, or modification takes effect.”

Subsec. (a)(16)(C). Pub. L. 115-254, §163(d)(2), substituted “unless the alteration—” and cls. (i) and (ii) for “if the alteration does not comply with the plan the Secretary approves, and the Secretary is of the opinion that the alteration may affect adversely the safety, utility, or efficiency of the airport; and”.

Subsec. (a)(16)(D). Pub. L. 115-254, §163(d)(3), which directed substitution of “when an alteration in the airport or its facility is made that is within the scope of the Secretary’s review and approval authority as set forth in subparagraph (B), and does not conform with the portions of the plan approved by the Secretary, and the Secretary decides that the alteration adversely affects the safety, utility, or efficiency of aircraft operations, or of any property on or off the airport that is owned, leased, or financed by the Government, then the owner or operator will, if requested by the Secretary” for “when an alternation” and all that follows through “Secretary, will”, was executed by making the substitution for “when an alteration in the airport or its facility is made that does not conform to the approved plan and that the Secretary decides adversely affects the safety, utility, or efficiency of any property on or off the airport that is owned, leased, or financed by the Government, the owner or operator, if requested by the Secretary, will” to reflect the probable intent of Congress.

Subsec. (a)(17). Pub. L. 115-254, §131(1), substituted “if any phase of such project has received funds under this subchapter, each contract” for “each contract”.

Subsec. (r)(3). Pub. L. 115-254, §131(2), substituted “2023” for “2018”.

Pub. L. 115-141 substituted “October 1, 2018” for “April 1, 2018”.

Subsec. (s)(3). Pub. L. 115-254, §185, added par. (3).

Subsecs. (u), (v). Pub. L. 115-254, §131(3), added subsecs. (u) and (v).

Subsec. (w). Pub. L. 115-254, §132(a), added subsec. (w). 2017—Subsec. (e)(1), (4)(B), (6). Pub. L. 115-91 substituted “section 31(b) of the Small Business Act” for “section 3(p) of the Small Business Act”.

Subsec. (r)(3). Pub. L. 115-63 substituted “April 1, 2018” for “October 1, 2017”.

2016—Subsec. (r)(3). Pub. L. 114-190 substituted “October 1, 2017” for “July 16, 2016”.

Pub. L. 114-141 substituted “July 16, 2016” for “April 1, 2016”.

Subsec. (t). Pub. L. 114-238 added subsec. (t).

2015—Subsec. (r)(3). Pub. L. 114-55 substituted “April 1, 2016” for “October 1, 2015”.

2014—Subsec. (k). Pub. L. 113-188, §1501(b)(1), (2)(A)(i), redesignated subsec. (l) as (k) and struck out former

subsec. (k). Prior to amendment, text of subsec. (k) read as follows: “The Secretary shall provide to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives an annual summary of the reports submitted to the Secretary under subsection (a)(19) of this section and under section 111(b) of the Federal Aviation Administration Authorization Act of 1994.”

Subsec. (k)(5). Pub. L. 113-188, §1501(b)(2)(A)(ii), substituted “subsection (m)(7)” for “subsection (n)(7)” in introductory provisions and “subsection (m)” for “subsection (n)” in subpar. (B).

Subsec. (l). Pub. L. 113-188, §1501(b)(2)(A)(i), redesignated subsec. (m) as (l). Former subsec. (l) redesignated (k).

Subsec. (m). Pub. L. 113-188, §1501(b)(2)(A)(i), (iii), redesignated subsec. (n) as (m) and substituted “subsections (b) and (k)” for “subsections (b) and (l)” in pars. (1) and (7) and “subsection (n)” for “subsection (o)” in pars. (4) and (6). Former subsec. (m) redesignated (l).

Subsec. (n). Pub. L. 113-188, §1501(b)(2)(A)(i), (iv), redesignated subsec. (o) as (n) and substituted “subsection (m)” for “subsection (n)” wherever appearing. Former subsec. (n) redesignated (m).

Subsec. (o). Pub. L. 113-188, §1501(b)(2)(A)(i), (v), redesignated subsec. (p) as (o) and substituted “subsection (n)” for “subsection (o)”. Former subsec. (o) redesignated (n).

Subsec. (p). Pub. L. 113-188, §1501(b)(2)(A)(i), (vi), redesignated subsec. (q) as (p) and substituted “subsections (a) through (o)” for “subsections (a) through (p)” in introductory provisions. Former subsec. (p) redesignated (o).

Subsec. (q). Pub. L. 113-188, §1501(b)(2)(A)(i), (vii), redesignated subsec. (r) as (q) and substituted “paragraphs (1) through (3) of subsection (p)” for “subsections (q)(1) through (3)”. Former subsec. (q) redesignated (p).

Subsecs. (r) to (t). Pub. L. 113-188, §1501(b)(2)(A)(i), redesignated subsecs. (s) and (t) as (r) and (s), respectively. Former subsec. (r) redesignated (q).

2012—Subsec. (a)(16)(D)(ii). Pub. L. 112-95, §135(a), inserted “, except in the case of a relocation or replacement of an existing airport facility that meets the conditions of section 47110(d)” before semicolon at end.

Subsec. (c)(2)(A). Pub. L. 112-95, §135(b)(1)(A)(i), substituted “purpose (including land serving as a noise buffer either by being undeveloped or developed in a way that is compatible with using the land for noise buffering purposes)” for “purpose” in introductory provisions.

Subsec. (c)(2)(A)(iii). Pub. L. 112-95, §135(b)(1)(A)(ii), substituted “reinvested in another project at the airport or transferred to another airport as the Secretary prescribes under paragraph (4)” for “paid to the Secretary for deposit in the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 (26 U.S.C. 9502) or, as the Secretary prescribes, reinvested in an approved noise compatibility project, including the purchase of nonresidential buildings or property in the vicinity of residential buildings or property previously purchased by the airport as part of a noise compatibility program”.

Subsec. (c)(2)(B)(iii). Pub. L. 112-95, §135(b)(1)(B), substituted “reinvested in another project at the airport or transferred to another airport as the Secretary prescribes under paragraph (4)” for “reinvested, on application to the Secretary, in another eligible airport development project the Secretary approves under this subchapter or paid to the Secretary for deposit in the Fund if another eligible project does not exist”.

Subsec. (c)(4), (5). Pub. L. 112-95, §135(b)(2), added pars. (4) and (5).

Subsec. (s)(3). Pub. L. 112-95, §404, amended par. (3) generally. Prior to amendment, text read as follows: “This subsection shall cease to be effective beginning February 18, 2012.”

Pub. L. 112-91 substituted “February 18, 2012.” for “February 1, 2012.”

Subsec. (t). Pub. L. 112-95, §136(a), added subsec. (t). 2011—Subsec. (s)(3). Pub. L. 112-30 substituted “February 1, 2012.” for “September 17, 2011.”

Pub. L. 112-27 substituted “September 17, 2011.” for “July 23, 2011.”

Pub. L. 112-21 substituted “July 23, 2011.” for “July 1, 2011.”

Pub. L. 112-16 substituted “July 1, 2011.” for “June 1, 2011.”

Pub. L. 112-7 substituted “June 1, 2011.” for “April 1, 2011.”

2010—Subsec. (s)(3). Pub. L. 111-329 substituted “April 1, 2011.” for “January 1, 2011.”

Pub. L. 111-249 substituted “January 1, 2011.” for “October 1, 2010.”

Pub. L. 111-216 substituted “October 1, 2010.” for “August 2, 2010.”

Pub. L. 111-197 substituted “August 2, 2010.” for “July 4, 2010.”

Pub. L. 111-161 substituted “July 4, 2010.” for “May 1, 2010.”

Pub. L. 111-153 substituted “May 1, 2010.” for “April 1, 2010.”

2009—Subsec. (s)(3). Pub. L. 111-116 substituted “April 1, 2010.” for “January 1, 2010.”

Pub. L. 111-69 substituted “January 1, 2010.” for “October 1, 2009.”

Pub. L. 111-12 substituted “October 1, 2009.” for “April 1, 2009.”

2008—Subsec. (s)(3). Pub. L. 110-330 substituted “April 1, 2009” for “October 1, 2008”.

2003—Subsec. (a)(21). Pub. L. 108-176, §165, added par. (21).

Subsec. (c)(2)(A)(iii). Pub. L. 108-176, §164, inserted before semicolon at end “, including the purchase of non-residential buildings or property in the vicinity of residential buildings or property previously purchased by the airport as part of a noise compatibility program”.

Subsec. (l)(5)(A). Pub. L. 108-176, §144(a), inserted “or any other governmental entity” after “sponsor”.

Subsec. (m)(1). Pub. L. 108-176, §144(b)(1), (2), substituted “include a provision in the compliance supplement provisions to” for “promulgate regulations that” and struck out “and opinion of the review” before “concerning the funding activities”.

Subsec. (m)(3). Pub. L. 108-176, §144(b)(3), struck out heading and text of par. (3). Text read as follows: “The report submitted to the Secretary under this subsection shall include a specific determination and opinion regarding the appropriateness of the disposition of airport funds paid or transferred to a sponsor.”

Subsec. (q). Pub. L. 108-7 added subsec. (q).

Subsec. (q)(2). Pub. L. 108-11, §2702(1), which directed the amendment of subsec. (q)(2) of section 321 of Pub. L. 108-7 by inserting “or underneath” before “the Class B airspace”, was executed by making the insertion in subsec. (q)(2) of this section, to reflect the probable intent of Congress.

Subsec. (q)(3). Pub. L. 108-11, §2702(2), (3), which directed the amendment of subsec. (q)(3) of section 321 of Pub. L. 108-7 by striking out “has sufficient capacity and” after “Title 49” and inserting “passenger” before “delays”, was executed by inserting “passenger” before “delays” and striking out “has sufficient capacity and” after “title 49” in subsec. (q)(3) of this section, to reflect the probable intent of Congress.

Subsec. (r). Pub. L. 108-7 added subsec. (r).

Subsec. (s). Pub. L. 108-176, §424, added subsec. (s).

2002—Subsec. (a)(17). Pub. L. 107-217 substituted “chapter 11 of title 40” for “title IX of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 541 et seq.)”.

2000—Subsec. (h). Pub. L. 106-181 amended heading and text of subsec. (h) generally. Prior to amendment, text read as follows: “Before modifying an assurance required of a person receiving a grant under this subchapter and in effect after December 29, 1987, or to require compliance with an additional assurance from the person, the Secretary of Transportation must—

“(1) publish notice of the proposed modification in the Federal Register; and

“(2) provide an opportunity for comment on the proposal.”

1997—Subsec. (e)(1). Pub. L. 105-135, §604(h)(1)(A), inserted before period at end “or qualified HUBZone small business concerns (as defined in section 3(p) of the Small Business Act)”.

Subsec. (e)(4)(B). Pub. L. 105-135, §604(h)(1)(B), which directed the amendment of subpar. (B) by inserting before the period “or as a qualified HUBZone small business concern (as defined in section 3(p) of the Small Business Act)”, was executed by inserting the material before period at end of last sentence to reflect the probable intent of Congress.

Subsec. (e)(6). Pub. L. 105-135, §604(h)(1)(C), inserted “or a qualified HUBZone small business concern (as defined in section 3(p) of the Small Business Act)” after “disadvantaged individual”.

1996—Subsec. (a)(20). Pub. L. 104-264, §143, added par. (20).

Subsec. (k). Pub. L. 104-287, §5(9), substituted “Transportation and Infrastructure” for “Public Works and Transportation”.

Subsec. (l)(1). Pub. L. 104-287, §5(80), substituted “August 23, 1994” for “the date of the enactment of this subsection”.

Subsec. (l)(5). Pub. L. 104-264, §805(b)(2), added par. (5).

Subsecs. (m) to (p). Pub. L. 104-264, §805(a), added subsecs. (m) to (p).

1994—Subsec. (a)(15). Pub. L. 103-305, §111(a)(1), inserted before semicolon at end “and make such reports available to the public”.

Subsec. (a)(19). Pub. L. 103-305, §111(a)(2)–(4), added par. (19).

Subsec. (k). Pub. L. 103-305, §111(c), added subsec. (k).

Subsec. (l). Pub. L. 103-305, §112(a), added subsec. (l).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2017 AMENDMENT

Amendment by Pub. L. 115-91 effective Jan. 1, 2020, see section 1701(j) of Pub. L. 115-91, set out as a note under section 657a of Title 15, Commerce and Trade.

EFFECTIVE DATE OF 2012 AMENDMENT

Pub. L. 112-95, title I, §136(b), Feb. 14, 2012, 126 Stat. 24, provided that: “The amendment made by subsection (a) [amending this section] shall apply to an agreement between an airport sponsor and a property owner (or an association representing such property owner) entered into before, on, or after the date of enactment of this Act [Feb. 14, 2012].”

EFFECTIVE DATE OF 2011 AMENDMENT

Amendment by Pub. L. 112-27 effective July 23, 2011, see section 5(j) of Pub. L. 112-27, set out as a note under section 40117 of this title.

Amendment by Pub. L. 112-21 effective July 1, 2011, see section 5(j) of Pub. L. 112-21, set out as a note under section 40117 of this title.

Amendment by Pub. L. 112-16 effective June 1, 2011, see section 5(j) of Pub. L. 112-16, set out as a note under section 40117 of this title.

Amendment by Pub. L. 112-7 effective Apr. 1, 2011, see section 5(j) of Pub. L. 112-7, set out as a note under section 40117 of this title.

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111-329 effective Jan. 1, 2011, see section 5(j) of Pub. L. 111-329, set out as a note under section 40117 of this title.

Amendment by Pub. L. 111-249 effective Oct. 1, 2010, see section 5(l) of Pub. L. 111-249, set out as a note under section 40117 of this title.

Amendment by Pub. L. 111-216 effective Aug. 2, 2010, see section 104(j) of Pub. L. 111-216, set out as a note under section 40117 of this title.

Amendment by Pub. L. 111-197 effective July 4, 2010, see section 5(j) of Pub. L. 111-197, set out as a note under section 40117 of this title.

Amendment by Pub. L. 111-161 effective May 1, 2010, see section 5(j) of Pub. L. 111-161, set out as a note under section 40117 of this title.

Amendment by Pub. L. 111-153 effective Apr. 1, 2010, see section 5(j) of Pub. L. 111-153, set out as a note under section 40117 of this title.

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111-116 effective Jan. 1, 2010, see section 5(j) of Pub. L. 111-116, set out as a note under section 40117 of this title.

Amendment by Pub. L. 111-12 effective Apr. 1, 2009, see section 5(j) of Pub. L. 111-12, set out as a note under section 40117 of this title.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110-330 effective Oct. 1, 2008, see section 5(l) of Pub. L. 110-330, set out as a note under section 40117 of this title.

EFFECTIVE DATE OF 2003 AMENDMENTS

Amendment by Pub. L. 108-176 applicable only to fiscal years beginning after Sept. 30, 2003, except as otherwise specifically provided, see section 3 of Pub. L. 108-176, set out as a note under section 106 of this title.

Pub. L. 108-7, div. I, title III, §321(b), Feb. 20, 2003, 117 Stat. 411, provided that: “This section [amending this section] shall be effective upon enactment [Feb. 20, 2003], notwithstanding any other section of title 49.”

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106-181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106-181, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-135 effective Oct. 1, 1997, see section 3 of Pub. L. 105-135, set out as a note under section 631 of Title 15, Commerce and Trade.

EFFECTIVE DATE OF 1996 AMENDMENT

Except as otherwise specifically provided, amendment by Pub. L. 104-264 applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104-264, set out as a note under section 106 of this title.

CONSTRUCTION OF 2000 AMENDMENT

Pub. L. 106-181, title I, §125(e), Apr. 5, 2000, 114 Stat. 76, provided that: “Nothing in any amendment made by this section [amending this section and sections 47125, 47151, and 47153 of this title] shall be construed to authorize the Secretary [of Transportation] to issue a waiver or make a modification referred to in such amendment.”

DEEMED REFERENCES TO CHAPTERS 509 AND 511 OF TITLE 51

General references to “this title” deemed to refer also to chapters 509 and 511 of Title 51, National and Commercial Space Programs, see section 4(d)(8) of Pub. L. 111-314, set out as a note under section 101 of this title.

DIVERSION OF AIRPORT REVENUES FOR CLAIMS RELATED TO CERTAIN CEDED LANDS

Pub. L. 105-66, title III, §340, Oct. 27, 1997, 111 Stat. 1448, provided that:

“(a) FINDINGS.—The Congress finds that—

“(1) Congress has the authority under article I, section 8 of the Constitution to regulate the air commerce of the United States;

“(2) section 47107 of title 49, United States Code, prohibits the diversion of certain revenue generated by a public airport as a condition of receiving a project grant;

“(3) a grant recipient that uses airport revenues for purposes that are not airport-related in a manner inconsistent with chapter 471 of title 49, United States Code, illegally diverts airport revenues;

“(4) illegal diversion of airport revenues undermines the interest of the United States in promoting a strong national air transportation system;

“(5) the policy of the United States that airports should be as self-sustaining as possible and that revenues generated at airports should not be diverted from airport purposes was stated by Congress in 1982 and reaffirmed and strengthened in 1987, 1994, and 1996;

“(6) certain airports are constructed on lands that may have belonged, at one time, to Native Americans, Native Hawaiians, or Alaska Natives;

“(7) contrary to the prohibition against diverting airport revenues from airport purposes under section 47107 of title 49, United States Code, certain payments from airport revenues may have been made for the betterment of Native Americans, Native Hawaiians, or Alaska Natives based upon the claims related to lands ceded to the United States;

“(8) Federal law prohibits diversions of airport revenues obtained from any source whatsoever to occur in the future whether related to claims for periods of time prior to or after the date of enactment of this Act [Oct. 27, 1997]; and

“(9) because of the special circumstances surrounding such past diversions of airport revenues for the betterment of Native Americans, Native Hawaiians, or Alaska Natives, it is in the national interest that amounts from airport revenues previously received by any entity for the betterment of Native Americans, Native Hawaiians, or Alaska Natives, as specified in subsection (b) of this section, should not be subject to repayment.

“(b) TERMINATION OF REPAYMENT RESPONSIBILITY.—Notwithstanding the provisions of [section] 47107 of title 49, United States Code, or any other provision of law, monies paid for claims related to ceded lands and diverted from airport revenues and received prior to April 1, 1996, by any entity for the betterment of Native Americans, Native Hawaiians, or Alaska Natives, shall not be subject to repayment.

“(c) PROHIBITION ON FURTHER DIVERSION.—There shall be no further payment of airport revenues for claims related to ceded lands, whether characterized as operating expenses, rent, or otherwise, and whether related to claims for periods of time prior to or after the date of enactment of this Act [Oct. 27, 1997].

“(d) CLARIFICATION.—Nothing in this Act [see Tables for classification] shall be construed to affect any existing Federal statutes, enactments, or trust obligations created thereunder, or any statute of the several States that define the obligations of such States to Native Americans, Native Hawaiians, or Alaska Natives in connection with ceded lands, except to make clear that airport revenues may not be used to satisfy such obligations.”

FINDINGS AND PURPOSE

Pub. L. 104-264, title VIII, §802, Oct. 9, 1996, 110 Stat. 3270, provided that:

“(a) IN GENERAL.—Congress finds that—

“(1) section 47107 of title 49, United States Code, prohibits the diversion of certain revenue generated by a public airport as a condition of receiving a project grant;

“(2) a grant recipient that uses airport revenue for purposes that are not airport related in a manner inconsistent with chapter 471 of title 49, United States Code, illegally diverts airport revenues;

“(3) any diversion of airport revenues in violation of the condition referred to in paragraph (1) undermines the interest of the United States in promoting a strong national air transportation system that is responsive to the needs of airport users;

“(4) the Secretary and the Administrator have not enforced airport revenue diversion rules adequately

and must have additional regulatory tools to increase enforcement efforts; and

“(5) sponsors who have been found to have illegally diverted airport revenues—

“(A) have not reimbursed or made restitution to airports in a timely manner; and

“(B) must be encouraged to do so.

“(b) PURPOSE.—The purpose of this title [see Short Title of 1996 Amendment note set out under section 40101 of this title] is to ensure that airport users are not burdened with hidden taxation for unrelated municipal services and activities by—

“(1) eliminating the ability of any State or political subdivision thereof that is a recipient of a project grant to divert airport revenues for purposes that are not related to an airport, in violation of section 47107 of title 49, United States Code;

“(2) imposing financial reporting requirements that are designed to identify instances of illegal diversions referred to in paragraph (1);

“(3) establishing a statute of limitations for airport revenue diversion actions;

“(4) clarifying limitations on revenue diversion that are permitted under chapter 471 of title 49, United States Code; and

“(5) establishing clear penalties and enforcement mechanisms for identifying and prosecuting airport revenue diversion.”

DEFINITIONS

Pub. L. 104-264, title VIII, §803, Oct. 9, 1996, 110 Stat. 3270, provided that: “For purposes of this title [see Short Title of 1996 Amendment note set out under section 40101 of this title], the following definitions apply:

“(1) ADMINISTRATOR.—The term ‘Administrator’ means the Administrator of the Federal Aviation Administration.

“(2) AIRPORT.—The term ‘airport’ has the meaning provided that term in section 47102(2) of title 49, United States Code.

“(3) PROJECT GRANT.—The term ‘project grant’ has the meaning provided that term in section 47102(14) [now section 47102(19)] of title 49, United States Code.

“(4) SECRETARY.—The term ‘Secretary’ means the Secretary of Transportation.

“(5) SPONSOR.—The term ‘sponsor’ has the meaning provided that term in section 47102(19) [now section 47102(26)] of title 49, United States Code.”

REVISION OF POLICIES AND PROCEDURES; DEADLINES

Pub. L. 104-264, title VIII, §805(b)(1), Oct. 9, 1996, 110 Stat. 3273, provided that: “Not later than 90 days after the date of the enactment of this Act [Oct. 9, 1996], the Secretary, acting through the Administrator, shall revise the policies and procedures established under section 47107(l) [now 47107(k)] of title 49, United States Code, to take into account the amendments made to that section by this title.”

FORMAT FOR REPORTING

Pub. L. 103-305, title I, §111(b), Aug. 23, 1994, 108 Stat. 1574, provided that, within 180 days after Aug. 23, 1994, the Secretary of Transportation was to prescribe a uniform simplified format readily comprehensible to the public for reporting applicable to airports.

§ 47108. Project grant agreements

(a) OFFER AND ACCEPTANCE.—On approving a project grant application under this subchapter, the Secretary of Transportation shall offer the sponsor a grant to pay the United States Government's share of the project costs allowable under section 47110 of this title. The Secretary may impose terms on the offer that the Secretary considers necessary to carry out this subchapter and regulations prescribed under this subchapter. An offer shall state the obligations

to be assumed by the sponsor and the maximum amount the Government will pay for the project from the amounts authorized under chapter 481 of this title (except sections 48102(e), 48106, 48107, and 48110). At the request of the sponsor, an offer of a grant for a project that will not be completed in one fiscal year shall provide for the obligation of amounts apportioned or to be apportioned to a sponsor under section 47114(c) or 47114(d)(3)(A) of this title for the fiscal years necessary to pay the Government's share of the cost of the project. An offer that is accepted in writing by the sponsor is an agreement binding on the Government and the sponsor. The Government may pay or be obligated to pay a project cost only after a grant agreement for the project is signed.

(b) INCREASING GOVERNMENT'S SHARE UNDER THIS SUBCHAPTER OR CHAPTER 475.—(1) When an offer has been accepted in writing, the amount stated in the offer as the maximum amount the Government will pay may be increased only as provided in paragraphs (2) and (3) of this subsection.

(2)(A) For a project receiving assistance under a grant approved under the Airport and Airway Improvement Act of 1982 before October 1, 1987, the amount may be increased by not more than—

(i) 10 percent for an airport development project, except a project for acquiring an interest in land; and

(ii) 50 percent of the total increase in allowable project costs attributable to acquiring an interest in land, based on current creditable appraisals.

(B) An increase under subparagraph (A) of this paragraph may be paid only from amounts the Government recovers from other grants made under this subchapter.

(3) For a project receiving assistance under a grant approved under the Act, this subchapter, or chapter 475 of this title after September 30, 1987, the amount may be increased—

(A) for an airport development project, by not more than 15 percent; and

(B) for a grant after September 30, 1992, to acquire an interest in land for an airport (except a primary airport), by not more than the greater of the following, based on current creditable appraisals or a court award in a condemnation proceeding:

(i) 15 percent; or

(ii) 25 percent of the total increase in allowable project costs attributable to acquiring an interest in land.

(c) INCREASING GOVERNMENT'S SHARE UNDER AIRPORT AND AIRWAY DEVELOPMENT ACT OF 1970.—For a project receiving assistance under a grant made under the Airport and Airway Development Act of 1970, the maximum amount the Government will pay may be increased by not more than 10 percent. An increase under this subsection may be paid only from amounts the Government recovers from other grants made under the Act.

(d) CHANGING WORKSCOPE.—With the consent of the sponsor, the Secretary may amend a grant agreement made under this subchapter to change the workscope of a project financed

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1278, §47129; renumbered §47131, Pub. L. 103-305, title I, §113(a)(1), Aug. 23, 1994, 108 Stat. 1577; amended Pub. L. 106-181, title VII, §722, Apr. 5, 2000, 114 Stat. 165; Pub. L. 112-95, title I, §152(c), Feb. 14, 2012, 126 Stat. 34.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
47129	49 App.:2220.	Sept. 3, 1982, Pub. L. 97-248, §521, 96 Stat. 694.

In this section, before clause (1), the words “on activities carried out” are substituted for “describing his operations” for clarity.

Editorial Notes

AMENDMENTS

2012—Subsec. (a). Pub. L. 112-95 substituted “June 1” for “April 1” in introductory provisions, added pars. (1) to (4), and struck out former pars. (1) to (4) which read as follows:

“(1) a detailed statement of airport development completed;

“(2) the status of each project undertaken;

“(3) the allocation of appropriations;

“(4) an itemized statement of expenditures and receipts; and”.

2000—Pub. L. 106-181 designated existing provisions as subsec. (a), inserted heading, added par. (5) of subsec. (a), and added subsec. (b).

1994—Pub. L. 103-305 renumbered section 47129 of this title as this section.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106-181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106-181, set out as a note under section 106 of this title.

[§ 47132. Repealed. Pub. L. 106-181, title I, § 123(a)(1), Apr. 5, 2000, 114 Stat. 74]

Section, added Pub. L. 104-264, title I, §142(a), Oct. 9, 1996, 110 Stat. 3221, temporarily directed the Administrator of the Federal Aviation Administration to issue guidelines to carry out not more than 10 pavement maintenance pilot projects.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF REPEAL

Repeal applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106-181, set out as an Effective Date of 2000 Amendments note under section 106 of this title.

§ 47133. Restriction on use of revenues

(a) PROHIBITION.—Local taxes on aviation fuel (except taxes in effect on December 30, 1987) or the revenues generated by an airport that is the subject of Federal assistance may not be expended for any purpose other than the capital or operating costs of—

(1) the airport;

(2) the local airport system; or

(3) any other local facility that is owned or operated by the person or entity that owns or operates the airport that is directly and substantially related to the air transportation of passengers or property.

(b) EXCEPTIONS.—

(1) PRIOR LAWS AND AGREEMENTS.—Subsection (a) shall not apply if a provision enacted not later than September 2, 1982, in a law controlling financing by the airport owner or operator, or a covenant or assurance in a debt obligation issued not later than September 2, 1982, by the owner or operator, provides that the revenues, including local taxes on aviation fuel at public airports, from any of the facilities of the owner or operator, including the airport, be used to support not only the airport but also the general debt obligations or other facilities of the owner or operator.

(2) SALE OF PRIVATE AIRPORT TO PUBLIC SPONSOR.—In the case of a privately owned airport, subsection (a) shall not apply to the proceeds from the sale of the airport to a public sponsor if—

(A) the sale is approved by the Secretary;

(B) funding is provided under this subchapter for any portion of the public sponsor’s acquisition of airport land; and

(C) an amount equal to the remaining unamortized portion of any airport improvement grant made to that airport for purposes other than land acquisition, amortized over a 20-year period, plus an amount equal to the Federal share of the current fair market value of any land acquired with an airport improvement grant made to that airport on or after October 1, 1996, is repaid to the Secretary by the private owner.

(3) TREATMENT OF REPAYMENTS.—Repayments referred to in paragraph (2)(C) shall be treated as a recovery of prior year obligations.

(c) RULE OF CONSTRUCTION.—Nothing in this section may be construed to prevent the use of a State tax on aviation fuel to support a State aviation program or the use of airport revenue on or off the airport for a noise mitigation purpose.

(Added Pub. L. 104-264, title VIII, §804(a), Oct. 9, 1996, 110 Stat. 3271; amended Pub. L. 112-95, title I, §149(a), Feb. 14, 2012, 126 Stat. 32.)

Editorial Notes

AMENDMENTS

2012—Subsec. (b). Pub. L. 112-95, designated existing provisions as par. (1), inserted heading, and added pars. (2) and (3).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2012 AMENDMENT

Pub. L. 112-95, title I, §149(b), Feb. 14, 2012, 126 Stat. 32, provided that: “The amendments made by subsection (a) [amending this section] shall apply to grants issued on or after October 1, 1996.”

EFFECTIVE DATE

Except as otherwise specifically provided, section applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104-264, set out as an Effective Date of 1996 Amendment note under section 106 of this title.

USE OF MINERAL REVENUE AT CERTAIN AIRPORTS

Pub. L. 112-95, title VIII, §813, Feb. 14, 2012, 126 Stat. 124, provided that:

“(a) IN GENERAL.—Notwithstanding any other provision of law, the Administrator of the Federal Aviation Administration may declare certain revenue derived from or generated by mineral extraction, production, lease, or other means at a general aviation airport to be revenue greater than the amount needed to carry out the 5-year projected maintenance needs of the airport in order to comply with the applicable design and safety standards of the Administration.

“(b) USE OF REVENUE.—An airport sponsor that is in compliance with the conditions under subsection (c) may allocate revenue identified by the Administrator under subsection (a) for Federal, State, or local transportation infrastructure projects carried out by the airport sponsor or by a governing body within the geographical limits of the airport sponsor’s jurisdiction.

“(c) CONDITIONS.—An airport sponsor may not allocate revenue identified by the Administrator under subsection (a) unless the airport sponsor—

“(1) enters into a written agreement with the Administrator that sets forth a 5-year capital improvement program for the airport, which—

“(A) includes the projected costs for the operation, maintenance, and capacity needs of the airport in order to comply with applicable design and safety standards of the Administration; and

“(B) appropriately adjusts such costs to account for inflation;

“(2) agrees in writing—

“(A) to waive all rights to receive entitlement funds or discretionary funds to be used at the airport under section 47114 or 47115 of title 49, United States Code, during the 5-year period of the capital improvement plan described in paragraph (1);

“(B) to perpetually comply with sections 47107(b) and 47133 of such title, unless granted specific exceptions by the Administrator in accordance with this section; and

“(C) to operate the airport as a public-use airport, unless the Administrator specifically grants a request to allow the airport to close; and

“(3) complies with all grant assurance obligations in effect as of the date of the enactment of this Act [Feb. 14, 2012] during the 20-year period beginning on the date of enactment of this Act.

“(d) COMPLETION OF DETERMINATION.—Not later than 90 days after receiving an airport sponsor’s application and requisite supporting documentation to declare that certain mineral revenue is not needed to carry out the 5-year capital improvement program at such airport, the Administrator shall determine whether the airport sponsor’s request should be granted. The Administrator may not unreasonably deny an application under this subsection.

“(e) RULEMAKING.—Not later than 90 days after the date of enactment of this Act, the Administrator shall promulgate regulations to carry out this section.

“(f) GENERAL AVIATION AIRPORT DEFINED.—In this section, the term ‘general aviation airport’ has the meaning given that term in section 47102 of title 49, United States Code, as amended by this Act.”

§ 47134. Airport investment partnership program

(a) SUBMISSION OF APPLICATIONS.—If a sponsor intends to sell or lease a general aviation airport or lease any other type of airport for a long term to a person (other than a public agency), the sponsor and purchaser or lessee may apply to the Secretary of Transportation for exemptions under this section.

(b) APPROVAL OF APPLICATIONS.—The Secretary may approve applications submitted under subsection (a) granting exemptions from the following provisions:

(1) USE OF REVENUES.—

(A) IN GENERAL.—The Secretary may grant an exemption to a sponsor from the provi-

sions of sections 47107(b) and 47133 of this title (and any other law, regulation, or grant assurance) to the extent necessary to permit the sponsor to recover from the sale or lease of the airport such amount as may be approved—

(i) in the case of a primary airport, by at least 65 percent of the scheduled air carriers serving the airport and by scheduled and nonscheduled air carriers whose aircraft landing at the airport during the preceding calendar year, had a total landed weight during the preceding calendar year of at least 65 percent of the total landed weight of all aircraft landing at the airport during such year; or

(ii) in the case of a nonprimary airport, by the Secretary after the airport has consulted with at least 65 percent of the owners of aircraft based at that airport, as determined by the Secretary.

(B) OBJECTION TO EXEMPTION.—An air carrier shall be deemed to have approved a sponsor’s application for an exemption under subparagraph (A) unless the air carrier has submitted an objection, in writing, to the sponsor within 60 days of the filing of the sponsor’s application with the Secretary, or within 60 days of the service of the application upon that air carrier, whichever is later.

(C) LANDED WEIGHT DEFINED.—In this paragraph, the term ‘landed weight’ means the weight of aircraft transporting passengers or cargo, or both, in intrastate, interstate, and foreign air transportation, as the Secretary determines under regulations the Secretary prescribes.

(2) REPAYMENT REQUIREMENTS.—If the Secretary grants an exemption to a sponsor pursuant to paragraph (1), the Secretary shall grant an exemption to the sponsor from the provisions of sections 47107 and 47152 of this title (and any other law, regulation, or grant assurance) to the extent necessary to waive any obligation of the sponsor to repay to the Federal Government any grants, or to return to the Federal Government any property, received by the airport under this title, the Airport and Airway Improvement Act of 1982, or any other law.

(3) COMPENSATION FROM AIRPORT OPERATIONS.—If the Secretary grants an exemption to a sponsor pursuant to paragraph (1), the Secretary shall grant an exemption to the corresponding purchaser or lessee from the provisions of sections 47107(b) and 47133 of this title (and any other law, regulation, or grant assurance) to the extent necessary to permit the purchaser or lessee to earn compensation from the operations of the airport.

(c) TERMS AND CONDITIONS.—The Secretary may approve an application under subsection (b) only if the Secretary finds that the sale or lease agreement includes provisions satisfactory to the Secretary to ensure the following:

(1) The airport will continue to be available for public use on reasonable terms and conditions and without unjust discrimination.

(2) The operation of the airport will not be interrupted in the event that the purchaser or

AGENDA ITEM TRANSMITTAL



CONSENT ☒ YES
☐ NO

AGENCY/DEPT. **E**

PROCESS Attachment E
 CLERK USE ONLY

CAO REVIEW

☒ Concur
☐ Do Not Concur
☐ Exempt

49

TO: BOARD OF SUPERVISORS COUNTY OF ORANGE

FROM: John Wayne Airport

CONTACT FOR INFORMATION

Tom Beckett

755-6551

MEETING DATE 12/03/87	SUBJECT John Wayne Airport Rents, Fees, and Charges	SUPV. DIST. 5
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SUMMARY OF REQUEST (Description for agenda)

Airport Manager requests approval of certain rents, fees, and charges as an element of revenue requirements in compliance with the Bond Indenture securing JWA Airport Revenue Bonds and the JWA Revenue Planning Policy.

ADDITIONAL DATA:

See pages 2 through 7.

PREVIOUS RELEVANT BOARD ACTIONS ON THIS SPECIFIC ITEM:

Board of Supervisors Resolution 82-1539, 84-1765, 87-825

FUNDING SOURCE(S) N/A	CURRENT YEAR COST N/A	ANNUAL COST N/A	BUDGETED? ☐ YES ☐ NO
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WILL PROPOSAL REQUIRE ADDITIONAL PERSONNEL?

☒ NO IF YES, STATE NUMBER _____ PERMANENT _____ LIMITED TERM _____

CONSISTENT WITH BOARD POLICY?

☒ YES ☐ NEW ITEM OR EXCEPTION

RECOMMENDED ACTION

Adopt the attached resolution which adjusts John Wayne Airport tiedown and T-Hangar fees, adjusts charges on overdue tiedown and T-Hangar fees, adjusts and establishes automobile parking fees, and establishes a security badge fee.

CONCURRENCES (If applicable)

Airport Commission, Revenue Committee,
 GSA/Real Estate Division, County Counsel

ATTACHMENTS

Proposed Resolution

11/30/87
 DATE

George A. Rebella
 AGENCY OR DEPARTMENT AUTHORIZED REPRESENTATIVE

JWA Rents, Fees, and Charges
 November 24, 1987
 Page 2

BACKGROUND

Board Resolutions 82-1539 and 87-825 established the John Wayne Airport Revenue Planning Policy, consistent with "full cost recovery". It is stated that the Airport shall be operated as a prudent and self-sustaining business enterprise, and include sufficient revenues to accommodate airport cost components, including: Current Expenses, reserves, debt service and capital related expenses, consistent with general County policies and objectives with respect to operation of the Airport. Resolution 87-825 contemplates that a series of rents, fees and charges related to John Wayne Airport (JWA) activities will be increased consistent with financial studies and Bond requirements. Commercial airline rates and charges were adjusted effective July 1, 1987.

General Aviation

General Aviation related fees were also identified in the Board Resolutions and in the financial analysis of the bond financing to be considered for adjustment. Two of the major components of the General Aviation fees are Aircraft Tiedown Fees and Hangar Fees. Anticipated revenues from these sources for 1987/88 are as follows:

Tiedown Fees - \$421,700
 Hangar Fees - \$ 12,000

At the present time these fees are based on Board of Supervisors Resolution No. 84-1765 which was adopted on December 11, 1984. The present rates by type of space are as follows:

<u>Type of Space</u>	<u>Number of Spaces</u>	<u>Rate/Month</u>
37'	237	\$54.00
40'	226	58.00
45'	17	66.00
50'	8	70.00
T-Hangar	13	80.00

In October of this year, as part of the Master Plan Improvement Project, tiedown spaces were relocated to the west side of the airfield. Simultaneously, the 37' and 40' spaces were consolidated into 40' spaces to allow greater flexibility and eliminate problems developing as a consequence of the restricted space sizes. The total number of tiedown spaces will be slightly smaller, about 40 spaces. This reduction has been accomplished through attrition. During the construction period the total number of tiedown spaces will be variable.

The tiedown spaces at JWA are considered to be among the more desirable spaces in the area for a number of reasons. The location is convenient for a large number of people, maintenance areas are provided for owner maintenance, wash and wax areas are provided, multiple Fixed Base Operators (FBOs) are available for maintenance and fuel, Crash/Fire/Rescue services are available, and security for the tiedown area is also provided.

JWA Rents, Fees, and Charges
 November 24, 1987
 Page 3

In order to follow the policy direction of maximizing revenue, two basic approaches are used to address the question of developing rates and charges. One approach to developing rates is to consider the cost of providing the service. The other approach is market comparisons. If similar locations and situations can be found where market forces have set rates, the market driven rates should be considered for implementation at JWA. Rates should be developed on the basis of either market or cost recovery, whichever is higher.

First, we performed a cost recovery analysis. Previous action your Board has taken in establishing airfield and terminal related charges has been based on the methodologies and formulas developed within the JWA Revenue Planning Policy. The calculation of the charges has been accomplished by using a financial model developed by the Airport Consultant, Aviation Planning Associates, Inc. ("AvPlan"). The model develops cost centers, allocates direct and indirect charges to those cost centers, offsets those costs by any applicable revenue to the cost center, and results in a net cost recovery requirement amount needed for the cost center. In the case of the General Aviation Cost Center, the net cost recovery requirement is allocated over the tiedown spaces after taking into consideration all other General Aviation revenue sources. The following rates result from the cost recovery analysis:

<u>Type of Space</u>	<u>Amount/Month</u>
40'	\$100.94
45'	114.86
50'	121.82
T-Hangars	139.23

Thus, it is apparent that the present rates are not consistent with a cost recovery approach and need to be increased.

Next, to determine appropriate tiedown fees, we conducted a market survey. Other airports were used for comparison purposes having similar physical characteristics to JWA and also having the same kinds of amenities as mentioned earlier. We found that present JWA tiedown fees are at the low end of the scale compared to others in the area. The following fees, based on a March 1987 survey and additional follow-up by JWA staff, are shown for comparison purposes.

	<u>Size</u>	<u>Amount/Month</u>
<u>JWA:</u>		
	40'	\$58.00
	45'	66.00
	50'	70.00
<u>Van Nuys:</u>	All	130.00
<u>Santa Monica:</u>		
	40'	64.00-85.00
	45'	110.00
	50'	135.00
<u>Burbank:</u>		
	Single-Engine	80.00
	Multi-Engine	120.00
<u>Long Beach:</u>		
	Single-Engine	150.00
	Multi-Engine	150.00-185.00

JWA Rents, Fees, and Charges
November 24, 1987
Page 4

<u>Palomar:</u>	Single-Engine	70.00
	Multi-Engine	93.00
<u>San Jose:</u>	Single-Engine	57.35
	Multi-Engine	65.60-88.00

The airports thought to be most comparable to JWA are Van Nuys, Santa Monica, Burbank, and Long Beach. Palomar and San Jose are shown to give a broader geographical spread. Thus, it appears that tiedown fees in the low one hundred dollars per month range would be reasonable.

In addition to comparing other tiedown rates to those at JWA, a 1983 bid process also indicates that JWA tiedown fees are below market. In 1983 the Board of Supervisors considered the possibility of leasing out the aircraft tiedown operations. Eleven proposals were received ranging from \$343,500 to \$637,500. The Board of Supervisors chose to continue the tiedown operation as a County operated enterprise. However, if the County had accepted the highest bid, the equivalent yield per space would have been \$103.00 per month. Applying an annual inflation multiplier of 3% to the equivalent yield per space, the 1987 yield would be \$115 per month per space.

Another useful market comparison is the fees charged by Fixed Base Operators (FBOs) at JWA. Generally, fee rates range from \$150.00 to \$300.00 per month per tiedown. Although there may be greater conveniences and more amenities at some FBO locations, the relative fees do give an indication of how the marketplace views the value of tiedown spaces at JWA.

The same market analysis can be applied to T-Hangars. Perhaps the primary difference is that the rental rate for the hangars, \$80.00 per month, is even further behind rates charged for similar facilities at neighboring airports. A sampling of rates in the area as of March, 1987 follows:

<u>Location</u>	<u>Amount/Month</u>
JWA	\$ 80.00
Van Nuys	495.00
Santa Monica	195.00
Burbank	350.00
Long Beach	N/A
Palomar	225.00-375.00
San Jose	116.00

Thus, it is obvious that JWA T-Hangar rates are considerable lower than those available elsewhere in the area.

In summary, both market analysis and cost recovery analysis indicate that JWA tiedown fees are too low. Based on the market analysis, rates in the \$120 to \$150 range per month for tiedowns and in the \$200 to \$300 per month for T-Hangars would not be unreasonable. However, tiedown fees at JWA have historically been calculated on a cost recovery basis, and an increase in fees based on cost recovery would be substantial. Therefore, although representing a lower increase than market analysis would support, the Airport Manager

JWA Rents, Fees, and Charges
 November 24, 1987
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recommends that the cost recovery methodology be used at this time and that future adjustments consider both market analysis and cost recovery analysis. In order to reduce the impact of the fee increase to the tiedown and T-Hangar tenants, it is recommended that the new fees be implemented in two phases as follows:

<u>Type of Space</u>	<u>Amount*/Month</u> <u>1-1-88</u>	<u>Amount*/Month</u> <u>6-1-88</u>
40'	\$ 80.00	\$101.00
45'	90.00	115.00
50'	96.00	122.00
T-Hangar	110.00	139.00

*Amounts are rounded to the nearest whole dollar for ease of calculation and record keeping.

It is also recommended that any odd size spaces which may result from movements and relocations during the Master Plan construction project have their fees calculated on a proportional basis using the 40-foot space as a base.

Once completely phased in, the increased fees will result in increased revenues of approximately \$20,300 per month over current rates.

Along with the adjustment in the tiedown fees, it is also recommended that an adjustment be made to the delinquent payment penalty. Presently, the penalty is \$2 per month. The present charge does not serve the function of a penalty, i.e., either to cover the cost of delinquent collections, or to encourage timely payment. County Counsel has previously given the opinion that delinquent payment fees are not subject to usury laws and consequently the major consideration is that the delinquent fee not be unreasonable or arbitrary. Therefore, it is recommended that the delinquent payment penalty for tiedown fees be assessed at 10% of the delinquent amount balance calculated each month. This will both offset the cost of follow up on delinquent accounts and encourage timely payment.

Automobile Parking Fees

The revenue generated through the various auto parking fees at JWA represents a major part of the financial viability of the Airport. Parking revenue accounts for more than 50% of the non-airline generated revenue at JWA. Originally estimated revenues by lot for 87/88 are as follows:

Short-Term	\$3,687,677
Long-Term	2,485,994
North Clear Zone	332,465
Employee	252,500
Meter	158,379

To accommodate new terminal construction, the long-term parking facility will close January 1, 1988, resulting in operating loss of \$1.2 million (roughly one-half of the annual amount of revenue). This lot contains spaces for 1,500 cars with a Board established parking rate of \$1 per hour and with a maximum charge of \$8 per day. This rate will remain in effect until closure.

JWA Rents, Fees, and Charges
November 24, 1987
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On or about December 1, 1987, JWA will open an Interim Parking Lot in an attempt to partially compensate for the loss of the long-term parking lot. The interim parking facility will contain spaces for 800 cars with a proposed parking charge of \$1 per hour and a daily maximum charge of \$5 per day, which is the same rate as the other remote parking.

Since automobile parking revenues are a major source of funding being utilized to meet cash flow requirements, these revenues are an integral component of the Airport Enterprise Fund and the recent Airport Bond financing. The parking revenues will be reduced substantially with the closing of the long-term lot. The opening of the interim parking facility is projected to produce revenues of \$25,500 per month during FY 1987-88. Therefore, to maintain parking revenue at a level that is considered prudent and consistent with Board policy, it is recommended that the rates in the short-term parking lot be increased as follows: the hourly rate to \$1.50 from \$1 per hour; and the maximum daily rate to \$15 from \$12. This increase is projected to produce an additional \$76,875 per month in revenue for FY 1987-88. The combined revenues from the interim facility and the increase in the short-term lot (\$102,000/month) will offset roughly one-half of the revenue lost from the closing of the long-term lot (\$207,000/month).

Another important reason for this increase is to enhance operational efficiencies. The short-term parking lot will experience parking disruptions during the Airport Improvement Project. During the construction period and the on-site roadway re-design phase, portions of the short-term lot will not be available to parking customers. The increase, in conjunction with an aggressive public awareness parking program, will influence potential parking customers to take advantage of the Airport's remote parking facilities with the free shuttle service and lower rates for parking and thus reduce pressure on the central terminal area.

Once the rates in the short-term lot are increased, the metered parking, which is the most convenient Airport parking, should also be increased to be at least equal to the hourly rate of the short-term parking lot (there is no daily maximum rate on metered parking). Therefore, it is recommended that the hourly rate in the metered parking lot be increased to \$1.50 from \$1. This increase is projected to result in an additional \$6,600 per month.

No adjustment to the parking rate for the North Clear Zone lot (sometimes referred to as the "Main Street Lot") is recommended at this time. The rate will remain at \$1.00 per hour, \$5.00 maximum daily charge. This rate will cover costs and, as was mentioned above, will encourage use of the remote lot due to the lower charge.

Lastly, it is recommended that the employee parking rate be increased to \$30 from \$25 per month. This increase is based on prevailing rates. A survey of employee parking rates in the area surrounding JWA revealed rates as follows:

JWA Rents, Fees, and Charges
 November 24, 1987
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<u>Name</u>	<u>Monthly Rate</u>
Surface Lot - Civic Center Drive	\$55
APCOA Structure	33
Surface Lot - Birch Street	35
Surface Lot - Tenth Street	35
OCTD Garage	35
Park Towers	45
Security Bank (surface lot)	40
First Interstate (surface lot)	40
Segerstrom Center	40/Reserved 30/Unreserved

In addition, the employee parking at JWA is very conveniently located to the workplace. There are approximately 375 employee parking spaces that will be affected by this increase in rates. This increase is projected to result in an additional \$22,500 in FY 1987-88.

It is recommended that all automobile parking rates be adjusted effective January 1, 1988 (except the interim lot, with the rate being effective upon its opening).

Security Badge Fee

The Airport Security Office issues laminated security badges to all persons who may have a legitimate reason to enter any Airport security area. Persons wearing the badges are typically airline, fixed base operator, or concessionaire employees. County JWA employees also wear security badges, but would be exempt from the fee.

County Counsel has issued an opinion which concludes that it would be appropriate for the Board of Supervisors to establish a security badge fee to recover the costs of providing the badges, consistent with the Airport Revenue Policy. JWA staff has determined that the actual cost of issuing the badges is approximately \$6.00 per badge. Therefore, the Airport Manager recommends that a \$6.00 service charge for issuing security badges be established. The approximate annual revenue generated from this fee would be \$3,000. It is recommended that the effective date of the security badge fee should be January 1, 1988.

JWA Rents, Fees, and Charges
 November 24, 1987
 Page 8

Summary fo Proposed Revenue Adjustments

In summary, the rates and charges that are being requested are displayed as follows:

<u>Type of Fee</u>	<u>From</u>	<u>To</u>	<u>Effective Date</u>	<u>Monthly Increase In Revenue</u>
Tiedown and T-Hangar*				
40'	\$58.00	\$101.00	6-1-88	
45'	66.00	115.00	6-1-88	
50'	70.00	122.00	6-1-88	
T-Hangar	80.00	139.00	6-1-88	\$20,300
Late Charge	2/mo.	10% of Bal.	1-1-88	100
Short-Term Lot	1.00/hr. 12/day max.	1.50/hr 15/day max.	1-1-88	76,875
Interim Lot		1.00/hr. 5/day max.	when opened	25,500
Metered Lot	1.00/hr. no max.	1.50/hr. no max.	1-1-88	6,600
Employee Lot	25/mo.	30/mo.	1-1-88	3,750
Security Badge		6/badge	1-1-88	250

*Two step phase in - Revenue estimate based on 6-1-88 rate.

The proposed fees and charges are to meet funding requirements pursuant to Public Resource Code Section 21080(b)(8) and Guidelines Section 15273, and are therefore exempt under the California Environmental Quality Act (CEQA). The fees and charges are consistent with criteria established in Board Resolution Nos. 82-1539 and 87-825 (JWA Revenue Policy), for Airport Enterprise Fund and Master Plan Requirements (FEIR 508) and are not levied for general revenue purposes.

Recommended Action

Adopt the attached resolution which adjusts John Wayne Airport tiedown and T-Hangar fees, adjusts charges on overdue tiedown and T-Hangar fees, adjusts and establishes certain automobile parking fees, and establishes a security badge fee.

TB:ln
 AIRADM/36

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RESOLUTION OF THE BOARD OF SUPERVISORS OF
ORANGE COUNTY, CALIFORNIA

December 8, 1987

On motion of Supervisor Riley, duly seconded and carried, the following Resolution was adopted:

WHEREAS, this Board, by Resolution Nos. 82-1539 and 87-825, established and reconfirmed the JWA Revenue Planning Policy, which contemplated, among others, a series of rents, fees, and charges related to John Wayne Airport ("JWA") activities which would be established and periodically reviewed and modified, consistent with financial studies, revenue bond requirements and full-cost recovery; and

WHEREAS, the Revenue Policy establishes that the Airport shall be operated as a prudent and self-sustaining business enterprise and shall maximize revenues; generally, the JWA Revenue Policy states that rates should be developed on the basis of either market or cost recovery, whichever is higher; and

WHEREAS, present general aviation tie-down fees and hangar fees were established by the Board on December 11, 1984, by Resolution No. 84-1765, which provided the following rates per month: 37-foot space, \$54; 40-foot space, \$58; 45-foot space, \$66; 50-foot space, \$70, and T-hangar, \$80; and

WHEREAS, as part of the Master Plan Improvement Project, tie-down spaces are being relocated to the west side of the airfield, with all 37-foot and 40-foot spaces being consolidated into 40-foot spaces; and

Resolution No. 87-1628
JWA Rents, Fees and Charges
DJD:hp

1 WHEREAS, a market survey was conducted finding that JWA tie-down
2 fees are low compared to other airports in the area and throughout the
3 state; and

4 WHEREAS, JWA fixed-base operators were surveyed, indicating
5 tie-down rates ranging from \$150 to \$300 per month; and

6 WHEREAS, a cost recovery analysis was prepared, taking into
7 consideration market analysis as well as full-cost recovery and the
8 JWA Revenue Policy, which is contained in the staff report attached to
9 the Agenda Item Transmittal for Board hearing of December 8, 1987
10 ("the staff report") which recommends certain rates and charges
11 adjustments; and

12 WHEREAS, in order to reduce the impact of a fee increase upon
13 tie-down and T-hangar licensees, staff has recommended such fees be
14 implemented in two phases; and

15 WHEREAS, to recover administrative costs and to promote prompt
16 payment, staff has also recommended an increase in the delinquent
17 payment charge for tie-down and T-hangar fees from the existing
18 two-dollar monthly charge to 10 percent, per month, of the delinquent
19 balance;

20 WHEREAS, the staff report also addressed automobile parking fees
21 at JWA, noting the proposed closure of the long-term parking facility
22 in January 1, 1988, due to terminal construction and noted the
23 resulting loss in operating revenues. The report also notes that an
24 interim parking lot will be opened on or about December 1, 1987, to
25 partially offset the loss of the long-term parking lot, but recommends
26 an increase in certain automobile parking fees to compensate the loss
27 in revenues; and
28

WHEREAS, the Airport security office issues laminated security badges to all persons who may have a reason to enter any Airport security area. The staff report recommends a security badge fee to recover the costs of providing the service of issuing the security badges; and

WHEREAS, this matter came regularly before the County Revenue Proposal Review Committee, after notice, on November 18, 1987, with the Committee recommending approval of the proposed rents, fees, and charges; and

WHEREAS, the Orange County Airport Commission heard extended public testimony on this matter at two consecutive regular meetings, November 18, 1987 and December 2, 1987, with the Airport Commission recommending approval of the agenda item, but to amend the staff recommendation to allow for a three-step phase-in of the fees for the 40-foot tie-down spaces; the two-step phase-in of the 45-foot, 50-foot and T-Hangar spaces shall continue to be effective February 1, 1988 and June 1, 1988; the Airport Manager has recommended that all of the other effective dates of the rates and charges be delayed until February 1, 1988.

NOW, THEREFORE, BE IT RESOLVED that the following rents and fees are increased or established, effective:

1. General aviation tie-down and hangar fees

40' Tiedown Space:	<u>Feb 1, 1988</u>	<u>June 1, 1988</u>	<u>Jan. 1, 1989</u>
	\$80	\$90	\$101

<u>Type of Space</u>	<u>Amount/Month</u> <u>Effective Feb. 1, 1988</u>	<u>Amount/Month</u> <u>Effective June 1, 1988</u>
45'	90.00	115.00
50'	96.00	122.00
T-Hangar	110.00	139.00

Increase delinquent payment charge, effective February 1, 1988 to

10%, per month, of the delinquent balance.

2. Automobile parking fees*

Short-term lot - \$1.50 per hour; maximum daily rate \$15.

Interim facility - \$1.00 per hour; maximum daily rate \$5.

Metered parking lot - hourly rate \$1.50.

Employee parking rate - \$30 per month.

* rates will be effective February 1, 1988, except the interim facility with such rate being effective upon its opening.

3. Security badge fee*

\$6.00 per badge.

* effective February 1, 1988.

BE IT FURTHER RESOLVED that the proposed fees and charges are to meet funding requirements pursuant to Public Resources code Section 21080(b)(8) and Guidelines Section 15273, and are therefore exempt under the California Environmental Quality Act (CEQA). The fees and charges are consistent with criteria established in Board Resolution Nos. 82-1539 and 87-825 (JWA Revenue Policy), for Airport Enterprise Fund and master Plan Requirements (FEIR 508) and are not levied for general revenue purposes.

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AYES: SUPERVISORS THOMAS F. RILEY, ROGER R. STANTON, HARRIETT M. WIEDER, GADDI H. VASQUEZ, AND DON R. ROTH

NOES: SUPERVISORS NONE

ABSENT: SUPERVISORS NONE

1 STATE OF CALIFORNIA)
 2) ss.
 3 COUNTY OF ORANGE)

4 I, LINDA D. ROBERTS, Clerk of the Board of Supervisors of Orange
 5 County, California, hereby certify that the above and foregoing
 6 Resolution was duly and regularly adopted by the said Board at a
 7 regular meeting thereof held on the 8th day of December, 1987, and
 8 passed by a unanimous vote of said Board.

9 IN WITNESS WHEREOF, I have hereunto set my hand and seal this 8th
 10 day of December, 1987.

11 
 12 LINDA D. ROBERTS
 13 CLERK OF THE BOARD OF Supervisors
 14 of Orange County, California
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OFFICE OF
 COUNTY COUNSEL
 ORANGE COUNTY

FO192-210 (5/77)

LAW OFFICES
PALMIERI, TYLER, WIENER, WILHELM & WALDRON

A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

4000 MAC ARTHUR BOULEVARD

EAST TOWER - SUITE 1000

P. O. BOX 8090

NEWPORT BEACH, CALIFORNIA 92660

(714) 851-9400

WRITER'S DIRECT
DIAL NUMBER

TELECOPIER (714) 851-554

TELEX: 5-06016110

REFER TO FILE NO.

ANGELO J. PALMIERI*
ROBERT F. WALDRON*
ALAN A. WIENER*
ROBERT C. IHRKE*
JAMES E. WILHELM*
DENNIS G. TYLER*
MICHAEL J. GREENE*
FRANK C. ROTHROCK*
DENNIS W. GHAN*
DAVID D. PARR*
CHARLES H. KANTER*
J. RICHARD RAWLS
PATRICK A. HENNESSEY
ELINOR J. VOTAW
PHILIP W. GREEN
DON FISHER
GREGORY N. WEILER
WARREN A. WILLIAMS
JOHN R. LISTER
MICHAEL E. RIPLEY
FREDERIC M. ZINN
NANCY L. VANDERLIP
SCOTT D. RAPHAEL
PAUL R. JOHNSON
BRUCE W. DANNEMEYER
CYNTHIA M. WOLCOTT
MICHELLE M. FUJIMOTO
NORMAN J. RODICH
LORI K. DAVIES

December 8, 1987

*Submitted to the Board
on December 8, 1987.
André D. Labette
Clerk of Board*

*A PROFESSIONAL CORPORATION

The Honorable Orange County
Board of Supervisors
10 Civic Center Drive
Santa Ana, California 92701

RE: Airport Commission Proposal for Increase in
Tiedown and T-Hangar rates at John Wayne Airport.

Dear Honorable Supervisors:

We represent the newly-formed Orange County Airport Association. This organization represents numerous aircraft tie-down tenants at John Wayne airport, as well as other aviation professionals and individuals interested in and affected by the daily operations at Orange County Airport.

We formally object to the Board's consideration of the proposed Tie-down and T-Hangar increase at the Board meeting on this date. We hereby request that the Board table any vote on this proposal, and remand the proposal to the Reserve Revenue Committee, and Airport Commission Staff, for proper consideration of the issues therein. Our formal objection is based on, but not limited to, the following three grounds:

1. Failure of the Airport Commission to Properly Follow Guidelines for Review of its Proposals by the Revenue Reserve Committee.

The Airport Commission and staff failed to follow its own operating procedures, because the Commission and staff failed to set the proposal for public hearing and to take public comments before submitting the proposal to the Revenue Review Committee.

We understand that standard operating procedures require the Revenue Review Committee to review all proposed rate increases, such as that of the tie-down rate increase proposal, before

#49

PALMIERI, TYLER, WIENER, WILHELM & WALDRON

The Honorable Orange County
Board of Supervisors
December 8, 1987
Page Two

submitted to the Board of Supervisors. We further understand that the same procedures require all proposals submitted to the Revenue Review Committee first to give public notice so that all interested members of the public can offer their views, comments, and opposition, if appropriate. The proposals must then indicate the existence and degree of public opposition, if any.

In the present case, a memo was sent to all T-hangar and tie-down tenants at Orange County airport on November 10, 1987, informing them of the proposed increase in tie-down and T-Hangar rates. Several tie-down tenants who belong to our organization never received this memorandum.

The item was included on the Airport Commission's November 18, 1987 meeting. At that meeting, however, the Commission was informed that many tie-down tenants were attending an FAA Tower personnel meeting also held that night on the Airport, and could therefore not attend. The Commission decided to continue the meeting on the Proposal until December 2, 1987, to allow interested parties an opportunity to express their opposition.

Despite the absence of any opportunity for public comment until December 2, 1987, the Commission nevertheless submitted the tie-down rate increase proposal to the Revenue Review Committee, indicating no public opposition. We understand that, on that basis, the Committee approved the proposed increase.

On December 2, 1987, over 200 members of the Airport community appeared at the Airport Commission's meeting, expressing a unanimous vote of extreme dissatisfaction and outrage with the proposal, for a variety of reasons. Some of these reasons are further set forth below. However, this meeting proved to be a futile gesture, since the Airport Commission had apparently already obtained the Revenue Committee's approval due to the "absence" of any opposition on November 18, 1987.

We would prefer to believe that the incident was an oversight on the part of the Commission. However, it is clear that the Commission and its staff have failed to follow their own internal procedures. Such conduct is, intentionally or unintentionally, an abuse of discretion. We therefore respectfully request that this matter be tabled, pending remand to the Revenue Review Committee with the proper reflection and consideration of the severe public objection and criticism of the proposal.

2. The AIT is Flawed and Misleading.

We further object to the Supervisors' consideration of the Proposal, because the AIT is flawed, unreliable and misleading. The Commission and staff have declined to explain the basis for

PALMIERI, TYLER, WIENER, WILHELM & WALDRON

The Honorable Orange County
Board of Supervisors
December 8, 1987
Page Four

upon general aviation at Orange County Airport.

The only reason for this substantial additional cost figure (which represents almost half of the total cost increase to general aviation from fiscal 1987 to 1988), was to comply with the Bond Indenture financing the Orange County Airport's Master Plan for the Commercial Air Terminal. That is, in order for the County to receive an A- rating on its bonds, it had to promise to establish a reserve of one-sixth of anticipated operating expenses.

Consequently, almost one-half of the proposed increase in General Aviation tie-down rates has been to finance the future Commercial Airline improvements at the Airport.

Clearly, it is manifestly unfair and unwarranted for general aviation to have its tie-down rates almost doubled, to finance commercial airline operations at the airport. More importantly, we believe the taxing of general aviation to support financing and development of commercial airline operations, may be violative of the Federal Airport and Airway Improvement Act, 49 U.S.C. Sections 2201, et sequitur.

Under 49 U.S.C. Section 1349, no entity receiving and expending federal funds for the improvement or maintenance of airport facilities and navigational aids, may confer an exclusive right of use of those facilities. Further, under 49 U.S.C. Section 2210(a), any recipient of such Federal airport funds must make the airport available for public use on fair and reasonable terms and without unjust discrimination. Rates must not exceed comparable rates for similar services.

Finally, the rates charged must not place an impermissible burden in interstate commerce, in violation of Article I, Section 8, Clause 17 of the Constitution.

Clearly, the proposed rates would greatly exceed comparable cost estimates for nearby airports. Of the airports our knowledgeable members surveyed, we found the following rates to be in effect:

<u>Airport</u>		<u>Rate</u>
La Verne-Brackett	\$	65.00/month
Chino		55.00/month
Corona		55.00/month
El Monte		70.00/month
Fullerton		75.00/month
Riverside		40.00/month
<u>Torrance</u>		<u>61.00/month</u>
AVERAGE	\$	60.15/month

PALMIERI, TYLER, WIENER, WILHELM & WALDRON

The Honorable Orange County
Board of Supervisors
December 8, 1987
Page Five

Proposed JWA Rate \$ 101.00/month

Percentage Increase Above Average: 68 %

Clearly, the proposed rate at John Wayne is substantially above the average rate at comparable airports. In light of the fact that at least one-half of the proposed increase is to finance commercial airline facilities, and the degree and burden of the increase, we have serious doubts whether the proposed increase can legally be justified under the Federal Airport and Airway Improvement Act, or the Constitution.

4. Summary and Conclusions.

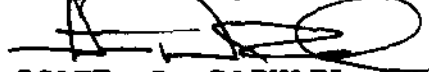
For all of the foregoing reasons, we strongly urge the Board not to vote on this proposal, pending remand to the Revenue Committee, to the Airport Commission Staff for further clarification and correction, and to County Counsel for a determination as to the legality of this measure.

Finally, we encourage the Supervisors to work with us to resolve these issues in the spirit of cooperation and harmony. We too are concerned with the important issues facing the airport community. We want to be a part of the solution, not the problem.

However, we also recognize that, when an offer of cooperation has been replaced by poorly reasoned, hasty, and politically expedient action adversely affecting our rights, we may have no alternative but to seek redress through the Courts. In this instance, we would prefer to work with the County to resolve our differences. Nonetheless, we feel these issues are compelling, and represent the difference between long-term general aviation survival or extinction at Orange County airport.

We trust that the Board's discretion and good judgment in remanding this ill-conceived and improperly-prepared plan for further study will avoid any need for any independent review of these issues by a court of competent jurisdiction. Thank you again for your gracious understanding, professional courtesy and anticipated cooperation.

Respectfully Submitted,



SCOTT D. RAPHAEL
Attorney for the Orange
County Airport Association

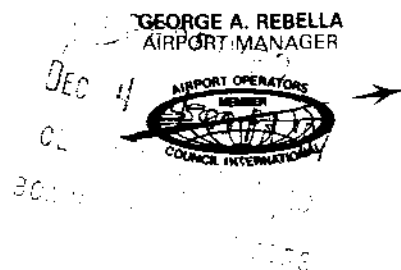
SDR/Xpc
CC: All OCAA Members



COUNTY OF ORANGE

JOHN WAYNE AIRPORT

3151 AIRWAY AVENUE
BUILDING K-101
COSTA MESA, CA 92626



December 3, 1987

TO: Each Board Office

FROM: George Rebella, Airport Manager *George Rebella*

SUBJECT: December 8, 1987 Agenda Item #49, John Wayne Airport Rents, Fees, and Charges

The Airport Commission has heard public testimony on the subject agenda item at two consecutive meetings, November 18, 1987 and December 2, 1987. Most of the public testimony centered on the proposed increases of fees for Tiedown and T-Hangar parking spaces for private planes. The agenda item which has been filed contains a staff recommendation that the increase in fees be phased in a two step process. After public testimony, the Airport Commission voted to amend the staff recommendation by allowing for a three step phase in of the fees for 40' Tiedown spaces. The Airport Manager is in agreement with this amendment, and also recommends that the initial increase be moved back one month to allow for adequate notification time for affected parties. Therefore, the amendment to the proposed resolution would be to replace the recommended two step phasing for 40' Tiedown space with the following phasing:

	Feb. 1, 1988	June 1, 1988	Jan 1, 1989
40' Tiedown Space	\$80	\$90	\$101

Also, to allow sufficient time for notification of the other various affected parties, the Airport Manager recommends that all of the other effective dates of the rates and charges be delayed until February 1, 1988.

If these are questions regarding this action, please call me at 755-6631, or Tom Beckett of my staff at 755-6551.

RECOMMENDATION ACTION

Approval of the Agenda Item and the proposed Resolution subject to the amendment described above adjusting the phasing of the increase to the 40' Tiedown spaces and delaying the effective date of all initial increases to February 1, 1988.

cc: Linda Roberts, Clerk of the Board
Larry Parrish, County Administrative Office
Adrian Kuyper, County Counsel

TB:aa
0703A

MINUTES OF THE BOARD OF SUPERVISORS
OF ORANGE COUNTY, CALIFORNIA

DECEMBER 8, 1987

RESOLUTION NO. 87-1628. JOHN WAYNE AIRPORT RENTS, FEES AND CHARGES: John Wayne Airport Manager requests approval of certain rents, fees and charges as an element of revenue requirements in compliance with the Bond Indenture securing John Wayne Airport Revenue Bonds and the John Wayne Airport Revenue Planning Policy.

Supervisor Riley referred to the additional recommended action contained in the Airport Manager's letter dated December 3, 1987, summarizing the action taken by the Airport Commission; noting that public testimony was taken on November 18 and December 2, 1987; and that the phasing of the increases in the 40 tiedown spaces would be in three phases with the first increase commencing February 1, 1988. Supervisor Riley stated he supported the recommended actions.

Chairman Stanton stated that the matter was not the subject of a public hearing, however, anyone wishing to address the Board on the matter could do so at this time.

Scott Raphael, attorney representing the Orange County Airport Association, requested that the matter be continued and referred to the Revenue Review Committee, and then proceeded to brief his letter submitted this date (on file) containing their objections to the proposed increases.

In response to Mr. Raphael, Airport Manager George Rebella stated that the Review Committee meeting was duly noticed in accordance with the Brown Act and that he had informed them of the Association's opposition to the rates; that after two hours of public testimony on November 18th, he had recommended that the Commission continue the matter to December 2nd to allow any other interested parties to give their input and that individual notices were sent to all tiedown tenants; that when the County went into the bond program, a financial consultant with extensive expertise in airport budgets was hired who created a financial model which the Board approved; that current budget figures are used and at the end of year, these figures are adjusted to actuals which then would impact the rates for the next year; and that comparables were obtained from other airports similar to John Wayne Airport.

MOTION: On motion by Supervisor Riley, seconded by Supervisor Roth, the Board adopted Resolution No. 87-1628 which adjusts John Wayne Airport tiedown and

(Continued to next page)

RESOLUTION OF THE BOARD OF SUPERVISORS
OF ORANGE COUNTY, CALIFORNIA

March 12, 2002

WHEREAS, this Board, by Resolutions No. 82-1539 and No. 87-825, has established the John Wayne Airport Revenue Planning Policy (Revenue Policy), which contemplates that fees, rents, and charges relating to John Wayne Airport activities would be established and periodically reviewed and modified, consistent with the requisites of full airport cost recovery, revenue bond indenture, and funding capital improvement needs; and

WHEREAS, the Revenue Policy and Orange County Codified Ordinance section 2-1-1(a) direct that John Wayne Airport shall be operated on an enterprise basis at no cost to taxpayers, through the imposition of fair and reasonable rentals, fees, and charges, and that any rates should be developed on the basis of either market or costs recover, whichever is higher; and

WHEREAS, the Orange County Codified Ordinance section 2-1-1(d) requires that the County maintain and preserve all Airport facilities in a safe and secure condition; and to operate the Airport in conformance with the provisions of federally mandated security measures; and

WHEREAS, the events of September 11, 2001 have resulted in dramatically increased security costs and insurance costs to be borne by John Wayne Airport; and

WHEREAS, the Airport and Airway Improvement Act of 1982 requires that the County, as a condition for receiving federal grant funds, maintain a fee and rental structure at John Wayne Airport of a type which will make the Airport a self-sustaining entity; and

WHEREAS, pursuant to Government Code section 66018, a public hearing has been noticed and held to consider revising and raising rates, fees, and charges at John Wayne Airport:

NOW, THEREFORE, BE IT RESOLVED and ordered as follows:

1. The following rates, fees, and charges are approved for implementation by the John Wayne Airport Director, and that such new and revised rates, fees, and charges shall be effective no later than April 1, 2002:

Resolution No. 02-062, John Wayne Airport -1-
Revised rates, fees, and charges
RDO:jxm

Public Parking	Short-Term	\$1 per hour - maximum \$17.00 per day
	Long-Term	\$1 per hour - maximum \$12.00 per day
Parking Permits		\$50 per month
County Tiedowns	40' space	\$140 per month
	45' space	\$159 per month
	50' space	\$169 per month
County Hangars		\$193 per month
Ground Transportation		\$2.25 per trip

2. That the Airport Director is directed to monitor revenues and expenditures at John Wayne Airport and to report back no later than September 1, 2002, on the Airport's actual financial result for the fiscal year ended June 30, 2002.

3. That the proposed fees meet the requirements pursuant to Public Resources Code section 21080(b)(8), since the proposed fees are only for the purpose of meeting program expenses and they are, therefore exempt under the California Environmental Quality Act (CEQA). The fees are also consistent with the criteria established in Board Resolutions No. 82-1539 and No. 87-825 (the Revenue Policy) for the Airport Enterprise Fund and are not imposed for taxation and/or County general revenue purposes.

4. That the Airport Director is directed to continue to adjust the airlines' rates and fees as necessary to ensure that aeronautical costs are fully recovered.

5. Any new use of Airport Enterprise Fund revenues shall require approval by the Board of Supervisors. Staff is directed to immediately limit previously-authorized expenditures of Airport Enterprise Fund revenues for airport system purposes unrelated to John Wayne Airport. CEO and LRA staff are directed to report to the Board on April 16 with recommendations regarding existing contracts and staff costs which utilize Airport Enterprise Fund revenues.

Resolution No. 02-062, John Wayne Airport
Revised rates, fees, and charges
RDO:jxm

-2-

The foregoing was passed and adopted by the following vote of the Orange County Board of Supervisors, on March 12, 2002, to wit:

AYES:	Supervisors:	JAMES W. SILVA, TODD SPITZER, CHARLES V. SMITH THOMAS W. WILSON, CYNTHIA P. COAD
NOES:	Supervisor(s):	
EXCUSED:	Supervisor(s):	
ABSTAINED:	Supervisor(s):	

Cynthia P. Coad

CHAIR

STATE OF CALIFORNIA)
COUNTY OF ORANGE)

I, DARLENE J. BLOOM, Clerk of the Board of Orange County, California, hereby certify that a copy of this document has been delivered to the Chair of the Board and that the above and foregoing Resolution was duly and regularly adopted by the Orange County Board of Supervisors .

IN WITNESS WHEREOF, I have hereto set my hand and seal.

Darlene J. Bloom
DARLENE J. BLOOM
Clerk of the Board
County of Orange, State of California



Resolution No: 02-062
Agenda Date: 03/12/2002
Item No: 28



I certify that the foregoing is a true and correct copy of the Resolution adopted by the Board of Supervisors, Orange County, State of California

DARLENE J. BLOOM, Clerk of the Board of Supervisors

By: *Nancy Sham*
Deputy

RESOLUTION OF THE BOARD OF SUPERVISORS OF
ORANGE COUNTY, CALIFORNIA

August 14, 2018

WHEREAS, the Board of Supervisors, by Resolutions No. 82-1539, 87-825, and 02-062, has established the John Wayne Airport Revenue Planning Policy (JWA Revenue Policy), which contemplates that fees, rents, and charges relating to John Wayne Airport activities would be established and periodically reviewed and modified, consistent with the requisites of full airport cost recovery, revenue bond indenture, and funding capital improvement needs; and

WHEREAS, the JWA Revenue Policy and Orange County Codified Ordinance Section 2-1-1(a) direct that John Wayne Airport (JWA) shall be operated on an enterprise basis at no cost to taxpayers, through the imposition of fair and reasonable rentals, fees, and charges, and that any rates should be developed on the basis of either market or cost recovery, whichever is higher; and

WHEREAS, the Airport and Airway Improvement Act of 1982 requires that the County, as a condition for receiving federal grant funds, maintain a fee and rental structure at John Wayne Airport of a type which will make the Airport a self-sustaining entity; and

WHEREAS, pursuant to the JWA Revenue Policy, Orange County Codified Ordinances and the Airport and Airway Improvement Act of 1982, JWA seeks to update the airport's ground transportation fees in order to ensure continued recovery of JWA's costs while responding to changes in the ground transportation services industry; and

WHEREAS, pursuant to Government Code Section 66018, a public hearing has been noticed and held to consider a new fee at John Wayne Airport;

NOW, THEREFORE, BE IT RESOLVED and ordered as follows:

1. That the proposed fee is categorically exempt from the California Environmental Quality Act (CEQA) in accordance with Public Resources Code Section 21080(b)(8) and Section 15273 of the CEQA Guidelines.
2. That the proposed fee meets the requirements set forth in Article XIII C, Section 1, subdivisions (e)(1) and (e)(4) of the California Constitution, and is therefore exempt from the definition of a tax as used in that section.
3. That the proposed fee is consistent with the criteria established in Board Resolutions No. 82-1539, 87-825, and 02-062 for the Airport Enterprise Fund, and is not imposed for taxation and/or County general revenue purposes.
4. That the proposed ground transportation fee of \$2.25 per pick-up trip and \$2.25 per drop-off trip is hereby approved for implementation by the John Wayne Airport Director, and that this updated fee shall be effective no later than September 1, 2018.
5. That the proposed ground transportation fee of \$3 per pick-up trip and \$3 per drop-off trip is hereby approved for implementation by the John Wayne Airport Director, and that this updated fee shall be effective no later than March 1, 2019.
6. That the Airport Director is authorized to amend ground transportation and transportation network company permits to address the updated ground transportation fee and to make other minor amendments as required for airport operational needs.

The foregoing was passed and adopted by the following vote of the Orange County Board of Supervisors, on August 14, 2018, to wit:

AYES:	Supervisors:	LISA A. BARTLETT, ANDREW DO, SHAWN NELSON
NOES:	Supervisor(s):	MICHELLE STEEL, TODD SPITZER
EXCUSED:	Supervisor(s):	
ABSTAINED:	Supervisor(s):	



CHAIRMAN

STATE OF CALIFORNIA)
)
COUNTY OF ORANGE)

I, ROBIN STIELER, Clerk of the Board of Orange County, California, hereby certify that a copy of this document has been delivered to the Chairman of the Board and that the above and foregoing Resolution was duly and regularly adopted by the Orange County Board of Supervisors

IN WITNESS WHEREOF, I have hereto set my hand and seal.


ROBIN STIELER
Clerk of the Board
County of Orange, State of California



Resolution No: 18-084
Agenda Date: 08/14/2018
Item No: S27F



I certify that the foregoing is a true and correct copy of the Resolution adopted by the Board of Supervisors, Orange County, State of California

Robin Stieler, Clerk of the Board of Supervisors

By _____
Deputy